

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 08, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSIAH HARRIS,

Plaintiff,

v.

H. JACK and DEPARTMENT OF
CORRECTIONS,

Defendants.

NO: 4:23-CV-05092-RMP

ORDER DISMISSING ACTION

1915(g)

By Order filed October 4, 2023, the Court gave Plaintiff Josiah Harris a second opportunity to amend or voluntarily dismiss his complaint. *See* ECF No. 9. Plaintiff, a prisoner at the Coyote Ridge Corrections Center, is proceeding *pro se* and *in forma pauperis*. Defendants have not been served.

Plaintiff's First Amended Complaint against Defendants H. Jack and the Department of Corrections did not state an Eighth Amendment claim upon which relief may be granted. *See* ECF No. 9 at 2–3, 5–12. The Court cautioned Plaintiff that if he did not amend as directed, or voluntarily dismiss, the Court would

1 dismiss his First Amended Complaint for failure to state a claim under 28 U.S.C.
2 §§ 1915(e)(2) and 1915A(b)(1). *Id.* at 14. Plaintiff did not comply with the
3 Court's directive and has filed nothing further in this action. Therefore, it appears
4 that Plaintiff has abandoned this litigation.

5 For the reasons set forth above and in the Second Order to Amend or
6 Voluntarily Dismiss Complaint, ECF No. 9, **IT IS ORDERED** that this action is
7 **DISMISSED** for failure to state a claim upon which relief may be granted under
8 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

9 Pursuant to 28 U.S.C. § 1915(g) a prisoner who brings three or more civil
10 actions or appeals which are dismissed as frivolous or for failure to state a claim
11 will be precluded from bringing any other civil action or appeal *in forma pauperis*
12 “unless the prisoner is under imminent danger of serious physical injury.” 28
13 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory provisions of 28**
14 **U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the**
15 **three dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his**
16 **ability to file future claims in forma pauperis.**

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IT IS SO ORDERED. The District Court Clerk is directed to enter this Order, enter judgment of dismissal, provide copies to Plaintiff at his last known address, and **close the file**. The District Court Clerk is further directed to provide a copy of this Order to the Office of the Attorney General of Washington, Corrections Division. The Court certifies that any appeal of this dismissal would not be taken in good faith.

DATED November 8, 2023.

s/ Rosanna Malouf Peterson
 ROSANNA MALOUF PETERSON
 Senior United States District Judge