

✓
-pb
5/2/01

ENTERED
ON DOCKET

NOV 0 8 1994

By Deputy CML

FILED	LOGGED
RECEIVED	
NOV 0 8 1994	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA DEPUTY	

Horton v. Williams



JI-WA-002-017

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES HORTON; JAMES BARNHART;
JEROME PAYTON; J.B., through his next
friend, LORRAINE WEST; and K.M., through
his mother DEBBIE MOORE, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

BOB WILLIAMS, in his official capacity as
Superintendent of Green Hill School; JEAN
SOLIZ, in her official capacity as Secretary
of the Department of Social and Health
Services; and SID SIDOROWICZ, in his
official capacity as Assistant Secretary of
the Juvenile Rehabilitation Administration;
and the CHEHALIS SCHOOL DISTRICT,

Defendants.

CASE NO. C94-5428 RJB

ORDER DENYING MOTION TO
PARTIALLY DISMISS CLAIMS
UNDER RULE 12(B)(6)

THIS MATTER comes before the court on the above-entitled motion. The court has considered the records and files herein and documents filed in support of and in opposition to the motion. Defendants claim that in some particulars the plaintiffs have failed to state a claim upon which relief may be granted in plaintiffs' First Amended Complaint. Defendants respond that their First Amended Complaint is adequate. It should be noted that plaintiffs' Response to

33

1 Defendants' Motion effectively supplements and fleshes out plaintiffs' theory of the four claims
2 made in the First Amended Complaint.

3 The defendants' motion should be denied. The plaintiffs' First Amended Complaint has
4 stated four claims upon which relief may be granted and has sufficiently set forth non-conclusory
5 and specific facts supporting those claims. It would serve no purpose to strike from the
6 complaint supportive statements that are purely conclusory. Plaintiffs' First Amended Complaint,
7 particularly as further explained by plaintiffs' Response to Defendants' Motion, sufficiently advised
8 the defendants of the nature of plaintiffs' claims and the facts which underlie them. The
9 defendants have sufficient information to assess the initial strength of the claims, to preserve
10 relevant evidence and to identify related counter-claims and cross-claims, all as suggested by
11 *Grid Systems Corporation v. Texas Instruments, Inc.*, 771 F. Supp. 1033, 1037 (N.D.Cal. 1991).
12 If, after further careful consideration of Plaintiffs' First Amended Complaint and Plaintiffs'
13 Response to Defendants' Motion, defendants still do not understand the nature of any of
14 plaintiffs' claims or the facts which underlie them, defendants can, of course, seek discovery
15 under Fed. R. Civ. P. 26-37.

16 "All pleadings shall be so construed as to do substantial justice." Fed. R. Civ. P. 8(f).
17 Justice would not be served by dismissal of any of the plaintiffs' four claims at this stage of the
18 litigation.

19 Fed. R. Civ. P. 12(b) suggests that a Fed. R. Civ. P. 12(b)(6) motion shall be made before
20 pleading if a further pleading is permitted. Defendants' motion is also late.

21 The court notes that plaintiffs' second, third and fourth claims include state claims
22 brought under the court's supplemental jurisdiction, 28 U.S.C. § 1367. The pleading standards
23 for such claims are somewhat different than claims brought under 42 U.S.C. § 1983.

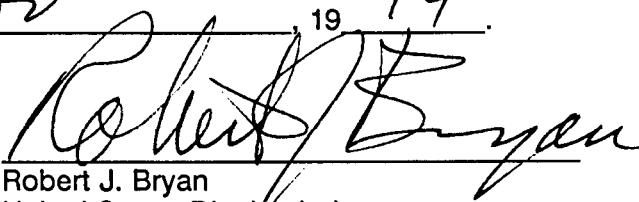
24 The court further notes that apparently plaintiffs' "physical plant allegations" are intended
25 to support the second claim that the defendants "failed to protect plaintiffs from harm while in
26 state custody."
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It remains to be seen whether plaintiffs can prove any of their claims. Their pleading, however, is sufficient to commence the litigation process on each of the four claims specified in the First Amended Complaint.

The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

DATED this 7 day of Nov, 1994.


Robert J. Bryan
United States District Judge