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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICKY LEWIS,

Plaintiff,

vs.

HOWARD SKOLNIK, *et al.*,

Defendants.

Case No. 2:09-cv-02393-KJD-GWF

ORDER

Plaintiff's Motion to Recuse the Office of the Attorney General (#46)

This matter comes before the Court on Plaintiff's Motion to Recuse the Office of the Attorney General as Counsel for Defendants Pursuant to NRS 41.0339(2) (# 46), filed on April 23, 2012; Defendants' Opposition to Plaintiff's Motion (# 47), filed on May 3, 2012; and Plaintiff's Reply (# 48), filed on May 14, 2012.

BACKGROUND

On July 16, 2010, Plaintiff filed a Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 in pro se capacity. Plaintiff alleges that the Defendants violated his religious rights and racially discriminated against him by denying him kosher food because he failed to be recognized by an outside Jewish organization as a conservative or Orthodox Jew. The Plaintiff argues that the Defendants' denial of his request was outside their scope of employment, thus they are not entitled to legal representation by the Attorney General's Office pursuant to NRS 41.0339 (2).

DISCUSSION

Under NRS 41.0339 (2), the Attorney General is allowed to provide counsel to a "present or former officer[s] or employee[s] of the state or a political subdivision" if the act or omission alleged is "within the course and scope of public duty or employment and appears to have been performed or omitted in good faith." Plaintiff argues that the Defendants are not entitled to

1 representation by the Office of the Attorney General since their actions were not within the scope
2 and course of their employment. Defendants, acting in their capacity as NDOC officials, denied
3 Plaintiff kosher meals in furtherance of NDOC policies since he failed to provide recognition by a
4 Jewish community that he was a conservative or Orthodox Jew. Thus, pursuant to NRS 41.0339
5 (2), the Office of the Attorney General should remain Defendants' counsel because their denial was
6 predicated upon guidelines set forth by the NDOC for the employees to maintain. Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Recuse the Office of the Attorney
8 General as Counsel for Defendants Pursuant to NRS 41.0339(2) (#46) is **denied**.

9 DATED this 18th day of June, 2012.

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12 GEORGE FOLEY, JR.
13 United States Magistrate Judge
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