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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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CHRISTOPHER J. WILLING,

Case No. 2:14-cv-1122-APG-PAL

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Plaintiff,

ORDER

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v.

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DEPUTY ARMS et al.,

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Defendants.

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I. DISCUSSION

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On September 23, 2014, this Court entered a screening order dismissing a portion of Plaintiff's deliberate indifference claim with leave to amend and permitted a portion of the deliberate indifference claim to proceed. (Dkt. #5 at 8). The Court granted Plaintiff 30 days to amend his complaint. (*Id.*). The Court also granted Plaintiff's application to proceed *in forma pauperis*. (*Id.*).

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On October 1, 2014, Plaintiff filed a motion for preliminary injunction. (Dkt. #8). Plaintiff alleged that he needed surgery for his collar bone and for a tumor mass on his back but Defendants had denied surgery. (*Id.* at 2). Plaintiff attached medical assessments from doctors and Defendants' denial of surgery. (*Id.* at 3-6). Defendants denied surgery because the documentation did not include "written verification from a doctor stating that medical request is medically necessary and why." (*Id.* at 6).

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On October 7, 2014, this Court issued an order denying Plaintiff's motion for preliminary injunction. (Dkt. #10 at 2). The Court found that the medical reports

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1 demonstrated that a doctor was going to refer Plaintiff to general surgery for further
2 evaluation and not that he needed surgery. (*Id.*). The Court found that Plaintiff could
3 not demonstrate that he was likely to suffer irreparable harm in the absence of
4 preliminary relief. (*Id.*).

5 On October 14, 2014, Plaintiff filed a notice of appeal as to the denial of the
6 motion for preliminary injunction. (*Id.*). On January 13, 2015, the Ninth Circuit Court of
7 Appeals entered an order affirming this Court's order denying preliminary injunctive
8 relief. (Dkt. #21 at 2).

9 The Court now grants Plaintiff 30 days from the date of this order to file an
10 amended complaint to cure the deficiencies of his deliberate indifference claim against
11 Defendants Martinez and Medina as stated in this Court's September 23, 2014
12 screening order. (Dkt. #5 at 8). It is further ordered that if Plaintiff chooses not to file an
13 amended complaint curing the stated deficiencies of his deliberate indifference claim
14 against Martinez and Medina, this action shall proceed on the deliberate indifference
15 claim against Defendants Arms, Nye County Detention, and Health Care Partners only.
16 (*Id.*).

17 The Court denies Plaintiff's motion to order Defendants to reply. (Dkt. #20).
18 None of the defendants has been served in this case. The Court will issue an order on
19 service after Plaintiff determines whether he will file an amended complaint. If Plaintiff
20 files an amended complaint, the Court will issue an order on service after the Court
21 screens the amended complaint. If Plaintiff chooses not to file an amended complaint,
22 the Court will issue an order on service as soon as Plaintiff informs the Court of his
23 desire to proceed on the original complaint or upon the expiration of the 30 day deadline
24 to file an amended complaint.

25 **II. CONCLUSION**

26 For the foregoing reasons, **IT IS ORDERED** that the motion to order Defendants
27 to reply (Dkt. #20) is denied.

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IT IS FURTHER ORDERED that Plaintiff has 30 days from the date of this order to file an amended complaint to cure the deficiencies of his deliberate indifference claim against Defendants Martinez and Medina as stated in this Court's September 23, 2014 screening order (Dkt. #5).

IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a copy of his original complaint (Dkt. #6) and this Court's screening order (Dkt. #5). If Plaintiff chooses to file an amended complaint, he must use the approved form and he shall write the words "First Amended" above the words "Civil Rights Complaint" in the caption.

IT IS FURTHER ORDERED that if Plaintiff chooses not to file an amended complaint curing the stated deficiencies of his deliberate indifference claim against Martinez and Medina, this action shall proceed on the deliberate indifference claim against Defendants Arms, Nye County Detention, and Health Care Partners only.

Dated: January 26, 2015.


UNITED STATES DISTRICT JUDGE