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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RONALD WINDORF,

Plaintiff,

v.

CORRECTIONAL LIEUTENANT N.
KELSO, et al.,

Defendants.

Case No. 2:14-cv-01821-APG-PAL

**ORDER DENYING DEFENDANT DEREK
LOWERY'S MOTION TO DISMISS**

(Dkt. #15)

11 Plaintiff Ronald Windorf alleges he was injured while working as an inmate in the Clark
12 County Detention Center. He has sued two entities and three individuals, including corrections
13 officer Derek Lowery "in his official capacity" who he alleges "was acting under the authority or
14 color of state law at the time" of the incidents giving rise to his claims. (Dkt. #9 at 2:6-8.)
15 Lowery filed a motion to dismiss the claims against him because a lawsuit "against a
16 governmental official in his official capacity is equivalent to a suit against the governmental
17 entity itself." (Dkt. #15 at 4, quoting *Larez v. Los Angeles*, 946 F.2d 630, 645 (9th Cir. 1991)).
18 Lowery further states that when "both the public entity and a municipal officer are named in a
19 lawsuit, a court may dismiss the individual named in his official capacity as a redundant
20 defendant." (*Id.*, citing *Center for Bio-Ethical Reform, Inc. v. Los Angeles County Sheriff's*
21 *Department*, 533 F.3d 780, 799 (9th Cir. 2008)).

22 However, Windorf has not sued a public entity. Although Lowery contends that Windorf
23 has sued CCDC (*Id.* at 2:13-15), CCDC is listed only in the caption but not named in any of the
24 jurisdictional paragraphs (Dkt. #9 ¶¶ 1-7) or any of the causes of action (*Id.* at 4-5). Further,
25 CCDC is a building and not a legal entity, so it is not a proper defendant. Nevada law appears to
26 delegate authority for the operation of CCDC to the Las Vegas Metropolitan Police Department
27 ("LVMPD"). *See Nev. Rev. Stat. §§ 280.280, 280.284.* But LVMPD is not named as a defendant
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1 in this suit. Because Windorf has not sued any public entity, Lowery is not a redundant
2 defendant.

3 IT IS THEREFORE ORDERED that defendant Lowery's motion to dismiss (**Dkt. #15**) is
4 **DENIED.**

5 DATED this 2nd day of February, 2016.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE

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