

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 Victor Tagle, Sr.,  
5 Plaintiff  
6 v.  
7 State of Nevada, et al.,  
8 Defendants

2:15-cv-01402-JAD-VCF

**Order Denying Plaintiff's Motion for  
Summary Judgment and Denying the  
Defendants' Motion to Strike.**

[ECF Nos. 95, 113]

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10 Nevada state prisoner Victor Tagle sues under 42 U.S.C. § 1983 for civil-rights violations  
11 that allegedly took place during his incarceration at High Desert State Prison (“HDSP”) and Ely  
12 State Prison.<sup>1</sup> In screening Tagle’s complaint, I found that he stated colorable claims for first  
13 amendment retaliation against HDSP assistant Warden Nash, supervisory liability for excessive  
14 force against HDSP Lt. Bean, and excessive force against HDSP guard Wing and HDSP Lt.  
15 Oliver.<sup>2</sup>

16 Tagle now moves for summary judgment on his claims, arguing that the defendants and  
17 their attorneys committed bad acts during the course of this proceeding that entitle him to  
18 judgment as a matter of law.<sup>3</sup> Six days after filing his summary-judgment motion, Tagle filed a  
19 “response” to it explaining that he did not know what summary judgment meant when he filed  
20 that motion and asking me to NOT summarily adjudicate his claims.<sup>4</sup> The defendants oppose  
21 Tagle’s motion and move to strike his response.<sup>5</sup> I treat Tagle’s response as a supplement to his  
22 motion.

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25 <sup>1</sup> ECF No. 1-1 at 1–5.

26 <sup>2</sup> ECF No. 2.

27 <sup>3</sup> ECF No. 95 at 1.

28 <sup>4</sup> ECF No. 98.

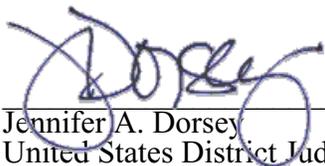
<sup>5</sup> ECF Nos. 106 (response), 113 (motion).

1 Summary judgment is appropriate when the pleadings and admissible evidence show that  
2 “there is no genuine issue as to any material fact and the moving party is entitled to judgment as a  
3 matter of law.”<sup>6</sup> If the moving party satisfies Rule 56 by demonstrating the absence of any  
4 genuine issue of material fact, the burden shifts to the party resisting summary judgment to “set  
5 forth specific facts showing that there is a genuine issue for trial.”<sup>7</sup>

6 Tagle vaguely insinuates in his summary-judgment motion that defendants and their  
7 attorneys committed bad acts during this case like bribery, forgery, and personally insulting him  
8 in court filings. Tagle provides no evidence of these bad acts, appears to point the court to a  
9 document that he filed in this case,<sup>8</sup> does not tie the alleged bad acts to his claims in this case,  
10 and does not identify any authority supporting his request for summary judgment on this basis.  
11 He also appears to retract his summary-judgment motion in the response that he filed to that  
12 motion.<sup>9</sup> Even if I do not interpret Tagle’s “response” as a request to withdraw his motion, it is  
13 clear that Tagle has not discharged his burden under FRCP 56.

14 Accordingly, IT IS HEREBY ORDERED that Tagle’s motion for summary judgment  
15 **[ECF No. 95] is DENIED** and the defendants’ motion to strike **[ECF No. 113] is DENIED** as  
16 moot.

17 DATED: June 6, 2017

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20 Jennifer A. Dorsey  
21 United States District Judge

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24 <sup>6</sup> *Celotex Corp. v. Catrett*, 477 U.S. 317, 330 (1986) (citing FED. R. Civ. P. 56(c)).

25 <sup>7</sup> *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986).

26 <sup>8</sup> See ECF No. 95 at 1 (claiming that defendants made ad hominem attacks against him at  
27 “documn No 44, page 4, lines 12-13”; ECF No. 44 is an errata that Tagle himself filed).

28 <sup>9</sup> ECF. No 98.