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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ABDUL HOWARD,

Plaintiff,

Case No. 2:15-cv-01458-APG-VCF

ORDER

v.

BONNIE POLLEY, et al.

Defendants.

I. DISCUSSION

On February 16, 2016, the Court issued a screening order dismissing Plaintiff's Eighth Amendment claim challenging the conditions of his confinement and his Fourteenth Amendment Equal Protection Clause claim concerning religious food deprivation with prejudice, dismissing defendants Brown, Temple, Clark County commander and chief, and sheriff Lombardo without prejudice, and permitting Plaintiff's First Amendment free exercise claim concerning religious services to proceed against Bonnie Polley, Plaintiff's Fourteenth Amendment Equal Protection Clause claim concerning religious services to proceed against Bonnie Polley, Plaintiff's First Amendment free exercise claim concerning religious food deprivation to proceed against kitchen officer Peggy Martinez, and Plaintiff's Eighth Amendment claim concerning inadequate nutrition to proceed against Peggy Martinez. (Dkt. # 7 at 10-11).

The Court granted Plaintiff 30 days from the date of that order to file an amended

1 complaint curing the deficiencies of his equal-protection claim. (*Id.* at 11). The Court
2 specifically stated that if Plaintiff chose not to file an amended complaint, the action would
3 proceed on Plaintiff's First Amendment free exercise claim concerning religious services
4 against religious coordinator Bonnie Polley; Plaintiff's Fourteenth Amendment Equal
5 Protection Clause claim against religious coordinator Bonnie Polley; Plaintiff's First
6 Amendment free exercise claim against kitchen officer Peggy Martinez; and Plaintiff's
7 Eighth Amendment inadequate food claim against kitchen officer Peggy Martinez. (*Id.* at
8 11-12). The thirty-day period has now expired, and Plaintiff has not filed an amended
9 complaint.

10 Pursuant to the screening order, this action shall proceed on Plaintiff's First
11 Amendment free exercise claim concerning religious services against religious
12 coordinator Bonnie Polley; Plaintiff's Fourteenth Amendment Equal Protection Clause
13 claim against religious coordinator Bonnie Polley; Plaintiff's First Amendment free
14 exercise claim against kitchen officer Peggy Martinez; and Plaintiff's Eighth Amendment
15 inadequate food claim against kitchen officer Peggy Martinez.

16 **II. CONCLUSION**

17 For the foregoing reasons, it is ordered that, pursuant to the Court's screening
18 order, this action shall proceed on Plaintiff's First Amendment free exercise claim
19 concerning religious services against religious coordinator Bonnie Polley; ¹ Plaintiff's
20 Fourteenth Amendment Equal Protection Clause claim against religious coordinator
21 Bonnie Polley; ² Plaintiff's First Amendment free exercise claim against kitchen officer
22 Peggy Martinez; and Plaintiff's Eighth Amendment inadequate food claim against kitchen
23

24 ¹ In the screening order, the Court permitted Plaintiff's First Amendment free
25 exercise claim to proceed against defendant John Doe programs administrator. (Dkt. # 7
26 at 10). The Court, however, notified Plaintiff that the use of "Doe" pleading is not favored
27 and that Plaintiff would be given an opportunity through discovery to identify the unknown
28 defendant. (*Id.*). As such, this claim shall proceed against the John Doe programs
administrator when Plaintiff learns his identity.

² As with Plaintiff's First Amendment free exercise claim, Plaintiff's Fourteenth
Amendment Equal Protection Clause claim shall proceed against the defendant John Doe
programs administrator when Plaintiff learns his identity.

1 officer Peggy Martinez

2 It is further ordered that the Clerk of Court SHALL ISSUE summonses for
3 defendants religious coordinator Bonnie Polley and kitchen officer Peggy Martinez, AND
4 DELIVER THE SAME, along with the complaint (Dkt. # 8), to the U.S. Marshal for service.
5 The Clerk also SHALL SEND to Plaintiff two (2) USM-285 forms, one copy of the
6 complaint and a copy of this order. Plaintiff shall have thirty (30) days within which to
7 furnish to the U.S. Marshal the required USM-285 forms with relevant information as to
8 each defendant on each form. Within twenty (20) days after receiving from the U.S.
9 Marshal a copy of the USM-285 forms showing whether service has been accomplished,
10 Plaintiff must file a notice with the Court identifying which defendants were served and
11 which were not served, if any. If Plaintiff wishes to have service again attempted on an
12 unserved defendant(s), then a motion must be filed with the Court identifying the unserved
13 defendant(s) and specifying a more detailed name and/or address for said defendant(s),
14 or whether some other manner of service should be attempted.

15 It is further ordered that henceforth, Plaintiff shall serve upon defendants or, if
16 appearance has been entered by counsel, upon the attorney(s), a copy of every pleading,
17 motion or other document submitted for consideration by the Court. Plaintiff shall include
18 with the original paper submitted for filing a certificate stating the date that a true and
19 correct copy of the document was mailed to the defendants or counsel for the defendants.
20 The Court may disregard any paper received by a district judge or magistrate judge which
21 has not been filed with the clerk, and any paper received by a district judge, magistrate
22 judge or the clerk which fails to include a certificate of service.

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DATED THIS 24th day of March, 2016.


UNITED STATES MAGISTRATE JUDGE