1	UNITED STATES DISTRICT COURT	
2	DISTRICT OF NEVADA	
3	* * *	
4	ZACHARY L. TRUMBLE,	Case No. 2:16-cv-01619-APG-VCF
5	Plaintiff,	
6	V.	ORDER GRANTING MOTION TO AMEND AND DENYING MOTION TO
7	LAS VEGAS METROPOLITAN POLICE	DISMISS AS MOOT
8	DEPARTMENT and OFFICER CO TORRES, #8232,	(ECF Nos. 10, 15)
9	Defendants.	
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11	Plaintiff Zachary Trumble was a pretrial detainee at Clark County Detention Center	
12	(CCDC). He alleges he was assaulted by defendant correctional officers Torres and Fraser, who	
13	are employees of defendant Las Vegas Metropolitan Police Department (LVMPD) assigned to	
14	work at the CCDC. He originally brought claims against Torres and LVMPD for (1) use of	
15	excessive force in violation of the Fourth and Fourteenth Amendments of the United States	
16	Constitution under 42 U.S.C. § 1983, (2) cruel and unusual punishment under the Eighth	
17	Amendment of the United States Constitution, (3) cruel and unusual punishment in violation of	
18	the Nevada Constitution, (4) assault, and (5) battery.	
19	LVMPD and Torres move to dismiss the first two claims as redundant because the	
20	original complaint did not clarify whether Trumble is an inmate or a pretrial detainee. LVMPD	
21	also moves to dismiss the constitutional claims against it because it cannot be liable under § 1983	
22	based on respondeat superior and the original complaint contained no allegations of a policy,	
23	custom, or practice that would render LVMPD liable.	
24	In response, Trumble moves to amend his complaint to clarify that he is a pretrial	
25	detainee, to drop his Eighth Amendment claim as a result, to add defendant Fraser, and to add	
26	allegations that the use of excessive force was the result of LVMPD's custom and practice of	
27	using, and not punishing the use of, excessive force against pretrial detainees.	
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1	I grant the motion to amend because, under Federal Rule of Civil Procedure 15(a)(1),	
2	Trumble "may amend once as a matter of course" within 21 days after service of a responsive	
3	pleading or motion. I deny the motion to dismiss, which is aimed at the original complaint, as	
4	moot.	
5	IT IS THEREFORE ORDERED that plaintiff Zachary Trumble's motion to amend (ECF	
6	No. 15) is GRANTED. Pursuant to Local Rule 15-1(b), the plaintiff shall file and serve the	
7	amended complaint.	
8	IT IS FURTHER ORDERED that the defendants' motion to dismiss (ECF No. 10) is	
9	DENIED as moot.	
10	DATED this 21st day of April, 2017.	
11	DATED this 21st day of April, 2017.	
12	ANDREW P. GORDON	
13	UNITED STATES DISTRICT JUDGE	
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