

1

2

3

4

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

5

* * *

6

STACEY M. RICHARDS,

Case No. 2:16-CV-1794 JCM (BNW)

7

Plaintiff(s),

ORDER

8

v.

9

GREG COX, et al.,

Defendant(s).

10

11

12

Presently before the court is the matter of *Richards v. Cox et al.*, case number 2:16-cv-01794-JCM-BNW.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

On May 23, 2019, this court granted in part and denied in part defendant's motion for summary judgment. (ECF No. 73). Specifically, "plaintiff's second, third, and fourth causes of action [we]re dismissed" in full; and "plaintiff's sole remaining § 1983 claim [was] dismissed as to defendants Byrne, Fletcher, and Gittere," but permitted to proceed "against CO Boardman, Director Cox, and Warden Baker" (collectively, the "remaining defendants"). (*Id.*). This court declined to reconsider its decision. (ECF No. 83). The remaining defendants timely appealed. (ECF No. 85).

In its memorandum disposition, the Ninth Circuit remanded this case, affirming in part and vacating in part this court's decision. (ECF No. 87). The panel upheld this court's 1) denial of "Director Cox and Warden Baker['s] . . . qualified immunity from Richards's Eighth Amendment claims against them" and 2) "determin[ation] that the constitutional right violated was 'clearly established' when [plaintiff] Richards was shot in the face on April 21, 2015." (*Id.*).

However, the panel found that this court erred in its analysis of "whether Officer Boardman was entitled to qualified immunity from Richards's Eighth Amendment claim" and

1 “whether Officer Boardman’s actions violated a clearly established right.” (*Id.*). Thus, these
2 issues alone were vacated and remanded.

3 Upon review of the parties' prior briefing, this court finds it appropriate that the parties
4 further brief the remanded issues for summary judgment on 1) Officer Boardman's qualified
5 immunity and 2) Officer Boardman's alleged violations of clearly established rights, with the
6 Ninth Circuit's instructions in mind.

7 Defendant Boardman shall file his supplemental brief within 14 days of this order.
8 Thereafter, plaintiff Richards has 10 days to respond, and then, defendant Boardman may reply,
9 if he chooses, in 5 days.

10 | Accordingly,

11 IT IS SO ORDERED.

12 || DATED February 17, 2021.

Xenia C. Mahan
UNITED STATES DISTRICT JUDGE