

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Marquese Pickett,

Plaintiff

v.

James G. Cox, et al.,

Defendants

Case No.: 2:16-cv-02669-JAD-GWF

**Order Granting Motion
to Dismiss and Closing Case**

[ECF No. 17]

Pro se plaintiff and prisoner Marquese Pickett sues Nevada Department of Corrections (NDOC) Director James G. Cox, former¹ NDOC Medical Director Bruce Bannister, and various “Doe” employees for violating his Eighth Amendment rights with their deliberate indifference to his medical needs in March of 2013 during his incarceration at the High Desert State Prison.² Cox—the only served defendant—moves to dismiss this case because Pickett failed to file it before the two-year statute of limitations ran, he failed to properly exhaust his grievances before filing this case, Pickett cannot sue Cox under § 1983 because he does not allege that Cox personally participated in the violation, and regardless, Cox enjoys qualified immunity from Pickett’s claim.³

Pickett was granted an extension of the deadline to respond, but the extended deadline⁴ passed more than two weeks ago without any opposition.⁵ Local Rule LR 7-2(d) warns litigants that “[t]he failure of an opposing party to file points and authorities in response to any motion,

¹ See ECF No. 21 at 2.

² ECF No. 2 (screening order); ECF No. 3 at 6 (complaint).

³ ECF No. 17.

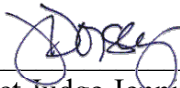
⁴ ECF No. 20.

⁵ ECF No. 22.

1 except a motion under Fed. R. Civ. P. 56 [motions for summary judgment] or a motion for
2 attorney's fees, constitutes a consent to the granting of the motion.”⁶ I apply Rule 7-2(d), deem
3 Pickett's failure to oppose this motion as his consent to granting it, and grant Cox's motion to
4 dismiss the claims against him with prejudice as untimely.

5 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Cox's
6 Motion to Dismiss [17] is **GRANTED, and all claims against defendant James G. Cox are**
7 **DISMISSED with prejudice as untimely.** And because this delay in filing renders his claims
8 against all defendants time-barred, **I direct the Clerk of Court to DISMISS this case in its**
9 **entirety and CLOSE THIS CASE.**

10 Dated: July 18, 2018

11 
12 _____
13 U.S. District Judge Jennifer A. Dorsey
14
15
16
17
18
19
20
21
22
23

⁶ L.R. 7-2(d).