

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 LAUSTEVEION JOHNSON,

4 Plaintiff

5 v.

6 GENTRY, *et al*,

7 Defendants

Case No.: 2:17-cv-01671-APG-VCF

**Order Modifying Magistrate Judge Order
and Allowing Limited Amendment to the
Complaint**

[ECF Nos. 44, 46]

8 Magistrate Judge Ferenbach denied plaintiff Lausteveion Johnson's motion to amend his
9 complaint. ECF No. 43. Johnson objected to that order. ECF No. 44. I will modify Judge
10 Ferenbach's order somewhat and allow an amendment to the complaint, but not to the extent
11 Johnson requests.

12 Judge Ferenbach ruled that amendment would be futile because Johnson was litigating
13 the same proposed claims against defendants Willis and Lewis in another case. ECF No. 43 at 2
14 (referring to Case No. 2:17-cv-01668-JAD-CWH). Johnson subsequently voluntarily dismissed
15 that case, so an amended complaint here would no longer duplicate the claims in that case.

16 Johnson seeks to add allegations against Willis and Lewis asserting religious
17 discrimination and excessive force, assault, and battery. I will grant him leave to amend as to the
18 excessive force claim. Johnson's complaint already alleges that Willis slammed his head into a
19 gate. Allowing a new legal theory on the same facts does not significantly prejudice the
20 defendants. But the religious discrimination allegation is new. Johnson has known the facts
21 giving rise to that claim for a significant period of time, but did not seek to amend earlier to add
22 those facts or claim. I will not allow a late amendment for that claim.

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1 I THEREFORE ORDER that plaintiff Johnson's **objection (ECF No. 44) is GRANTED**
2 **IN PART**. Magistrate Judge Ferenbach's order is modified to allow Johnson to amend his
3 complaint to add allegations directly related to the incident where his head was allegedly
4 slammed into a gate, but not about religious discrimination.

5 I FURTHER ORDER that Johnson's motion for oral argument on his motion **(ECF No.**
6 **46) is DENIED AS MOOT.**

7 DATED this 2nd day of October, 2019.

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10 ANDREW P. GORDON
11 UNITED STATES DISTRICT JUDGE
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