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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TONY ANTHONY WHITE,

Plaintiff,

v.

MICHELLE LEAVITT, et al.,

Defendants.

Case No. 2:18-cv-00008-JAD-PAL

ORDER

This matter is before the court on Plaintiff Toney Anthony White's election not to file an amended complaint. This matter is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

Mr. White is a pretrial detainee in custody at the Clark County Detention Center ("CCDC"). He is proceeding in this case *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915 and LSR 1-1 of the Local Rules of Practice. This case involves White's allegations of civil rights violations pursuant to 42 U.S.C. § 1983 while he was incarcerated at CCDC. The court reviewed the Complaint (ECF No. 4) and determined that it stated a plausible claim for failure-to-protect against corrections officer Carey. Nov. 28, 2018 Screening Order (ECF No. 3). However, his conspiracy claim was dismissed with leave to amend by December 27, 2018, to correct pleading defects. *Id.* The court explained that this action would "proceed immediately on the failure-to-protect claim against Carey only" if White did not file an amended complaint. *Id.* at 8–9.

Mr. White did not submit an amended complaint by the deadline. The court therefore entered an Order (ECF No. 5) on January 8, 2019, stating that this action will proceed against Defendant Carey. The Clerk of Court was directed to issue summons to Defendant Carey and mail White one USM-285 form to arrange for service of process. *Id.*

1 Mr. White subsequently requested a stay of the proceedings and extension of time to file
2 an amended complaint. ECF Nos. 7–8. The court denied an indefinite stay of proceedings, but
3 granted an extension of the deadline to amend until March 25, 2019. Feb. 22, 2019 Order (ECF
4 No. 9). The court further ordered that, if White did not to file an amended complaint by March
5 25, 2019, this case would “proceed as to the failure-to-protect claim against Defendant Carey
6 only,” and White would be given 90 days to serve the original Complaint (ECF No. 4) in
7 accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

8 To date, Mr. White has not filed an amended complaint or requested an extension of time
9 in which to do so. The court will therefore direct service of the Complaint (ECF No. 4).¹

10 Accordingly,

11 **IT IS ORDERED:**

- 12 1. Plaintiff Toney Anthony White is advised to carefully review Rule 4 of the Federal
13 Rules of Civil Procedure in order to properly serve Defendant Carey. Pursuant to Rule
14 4(m), White must complete service on or before **July 16, 2019**.
- 15 2. The Clerk of Court shall re-issue summons to Defendant Carey, and deliver the
16 summons and a copy of the Complaint (ECF No. 4) to the U.S. Marshal for service,
17 along with a copy of this Order.
- 18 3. The Clerk of Court shall MAIL Mr. White one (1) blank USM-285 Form along with
19 instructions for completing the form.
- 20 4. By **May 17, 2019**, the USM must receive White’s completed USM-285 forms via mail
21 to attempt service.²
- 22 5. Once the USM-285 forms are received, the USM shall attempt service on the defendant.

23 ¹ For purposes of service to CCDC corrections officers, the address of the Las Vegas Metropolitan Police
24 Department is:


25 Las Vegas Metropolitan Police Department
26 400 S. Martin L. King Boulevard
27 Las Vegas, NV 89106

28 ² White is advised that the mailing address to send the USM-285 forms is:

U.S. Marshal Service
333 Las Vegas Boulevard South, Suite 2058
Las Vegas, NV 89101

- 1 6. After attempting service, the USM shall file notice with the court, and serve the notice
2 on White, indicating whether the defendant was served.
- 3 7. If the USM is unable to serve the defendant and Mr. White wishes to have service
4 attempted again, White must timely file a motion specifying a more detailed name
5 and/or address for the defendant, or whether some other manner of service should be
6 attempted.
- 7 8. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service must be
8 completed by **July 16, 2019**. Mr. White's failure to complete service will result in a
9 recommendation to the district judge that this case and/or the unserved defendant be
10 dismissed without prejudice.
- 11 9. From this point forward, Mr. White shall serve upon defendant or, if appearance has
12 been entered by counsel, upon the attorney, a copy of every pleading, motion, or other
13 document filed with the Clerk of Court pursuant to LR IC 1-1 and 4-1 of the Local
14 Rules of Practice. In accordance with LR IC 4-1(d), the parties shall include with each
15 filing a certificate of service stating that a true and correct copy of the document was
16 served on an opposing party or counsel for an opposing party and indicating how
17 service was accomplished. The court may disregard any paper received by a district
18 judge or magistrate judge that has not been filed with the Clerk of Court, and any paper
19 received by a district judge, magistrate judge, or the Clerk of Court that fails to include
20 a certificate of service.

21 Dated this 16th day of April, 2019.

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24 PEGGY A. LEEN
25 UNITED STATES MAGISTRATE JUDGE
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