

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RAYMOND PADILLA,

Plaintiff,

v.

R. KNICKERBOCKER and D. REITZ,

Defendants.

Case No. 2:20-cv-0066-KJD-VCF

ORDER

Presently before the Court are Defendant's Motions for Temporary Restraining Order and Preliminary Injunction (#31/32). Here, there is no opposition, presumably because no parties have been served and the case is stayed pursuant to the order of the magistrate judge.

On September 1, 2021, the Court affirmed (#30) the Order (#13) of the magistrate judge recommending that some claims be dismissed, preserving claims against Defendants Knickerbocker and Reitz and giving Plaintiff leave to file an amended complaint. The Court gave Defendant twenty-one (21) days to file or renew a prior motion to file an amended complaint. Plaintiff's amended complaint or motion was due no later than September 22, 2021. Defendant did not respond. Instead, on October 25, 2021, Plaintiff filed the present motions which seek to have the Court order the State of Nevada to pay him for a wrongful conviction pursuant to Nevada Revised Statute 41.900, *et. seq.*

However, the injunctive motions must be denied for several reasons. First, the Court dismissed all claims against the State of Nevada, which became effective when Plaintiff failed to file an amended complaint. Second, the Court does not have jurisdiction over claims for wrongful conviction arising under NRS 41.900. See NRS § 41.900(1) (claims must be filed in a state district court). Third, Plaintiff cannot file such a claim because he is currently incarcerated. Id. (claim can only be filed by a person "who is not currently incarcerated for any offense").

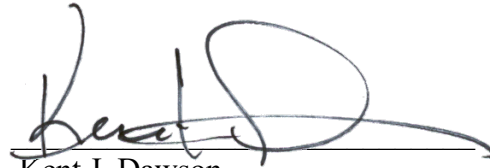
1 Accordingly, the motions are denied with prejudice.

2 Finally, the Court lifts the stay and refers the other pending motions to the magistrate
3 judge for consideration and for entry of any order necessary for Plaintiff to proceed on the
4 remaining claims.

5 Accordingly, IT IS HEREBY ORDERED that Defendant's Motions for Temporary
6 Restraining Order and Preliminary Injunction (#31/32) are **DENIED with prejudice;**

7 IT IS FURTHER ORDERED that the **STAY is LIFTED.**

8 Dated this 18th day of November, 2021.

9
10 

11 Kent J. Dawson
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28