

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DONALD BOYER,

Case No. 2:20-cv-02249-GMN-DJA

4 Plaintiff,

ORDER

5 v.

6 BRIAN E. WILLIAMS, SR.,

7 Defendant.

8 **I. DISCUSSION**

9 Plaintiff, who is incarcerated in the custody of the Nevada Department of
10 Corrections (“NDOC”), initiated this action with a motion for a preliminary injunction. (ECF
11 No. 1-1). Plaintiff has now filed a “Request for Judicial Notice,” indicating that on the
12 same day he submitted the motion for preliminary injunction, he also submitted a
13 complaint and accompanying exhibits. (ECF No. 4 at 1-2.) Plaintiff intended all the
14 documents to be filed in a single case, but the motion for preliminary injunction was filed
15 in this case, and his complaint and accompanying exhibits were filed in Case Number
16 2:20-cv-02269-APG-VCF. (*Id.* at 2.) Plaintiff states that he has already paid the filing fee
17 in this case and asks the Court to “combine” the cases. (*Id.*)

18 As an initial matter, the Court notes that the filing fee has actually been paid in
19 Case Number 2:20-cv-02269-APG-VCF, not in this case. Furthermore, the Court cannot
20 “combine” the two cases. Rather, Plaintiff must proceed in one case or the other. As
21 Plaintiff has already paid the filing fee in Case Number 2:20-cv-02269-APG-VCF, the
22 Court construes Plaintiff’s Request for Judicial Notice as motion to voluntarily dismiss this
23 case and proceed with Plaintiff’s claims in Case Number 2:20-cv-02269-APG-VCF. The
24 Court grants Plaintiff’s motion. This case is dismissed without prejudice, and no filing fee
25 will be assessed in this case.

26 The Court will instruct the Clerk of the Court to send Plaintiff a copy of the motion
27 for a preliminary injunction that Plaintiff filed in this case. Plaintiff may file the motion for
28 a preliminary injunction in Case Number 2:20-cv-02269-APG-VCF if he wishes. The

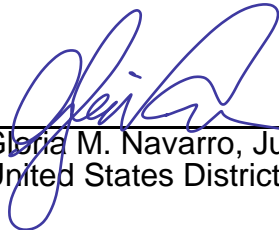
1 Court expresses no opinion regarding the merits of the motion for injunctive relief or his
2 likelihood of success.

3 **I. CONCLUSION**

4 For the foregoing reasons, it is ordered that the Court construes Plaintiff's Request
5 for Judicial Notice (ECF No. 4) as a motion for voluntary dismissal, and the Court grants
6 the motion for voluntary dismissal.

7 It is further ordered that the Clerk of the Court send Plaintiff a courtesy copy of the
8 motion for preliminary injunction (ECF No. 1-1).

9 DATED THIS 8 day of January 2021.

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13 Gloria M. Navarro, Judge
14 United States District Court
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