

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 MAX REED II,  
4

Plaintiff,

5 v.

6 SHANNON CHAMBERS, ET AL.,  
7

Defendants.

Case No. 2:22-cv-02158-ART-DJA

ORDER ADOPTING REPORT AND  
RECOMMENDATION OF U.S.  
MAGISTRATE JUDGE

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9 *Pro se* Plaintiff Max Reed II filed this action against various defendants for  
10 claims related to working without pay or under the minimum wage while  
11 incarcerated. (ECF No. 1.) U.S. Magistrate Judge Albrechts issued a report and  
12 recommendation recommending that the case be dismissed without prejudice for  
13 failure to file an amended complaint. (ECF No. 13.) Plaintiff filed an objection,  
14 requesting that the Court remove this case to the Ninth Circuit Court of Appeals.  
15 (ECF No. 14.) Plaintiff also filed a motion for a status check and a request to add  
16 supplemental authority to his objection. (ECF No. 15.) The Court overrules  
17 Plaintiff's objection and adopts Judge Albrechts's report and recommendation in  
18 full.

19 **I. STANDARD OF REVIEW**

20 Under the Federal Magistrates Act, a Court "may accept, reject, or modify,  
21 in whole or in part, the findings or recommendations made by [a] magistrate  
22 judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's  
23 report and recommendation, the court is required to "make a *de*  
24 *novo* determination of those portions of the [report and recommendation] to which  
25 objection is made." 28 U.S.C. § 636(b)(1). A court is not required to conduct "any  
26 review at all . . . of any issue that is not the subject of an objection." *Thomas v.*  
27 *Arn*, 474 U.S. 140, 149 (1985).  
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1 **II. BACKGROUND**

2 Plaintiff sues former Nevada Labor Commissioner Shannon Chambers;  
3 Labor Director Terry Reynolds; George B., a caseworker at Southern Desert  
4 Correctional Center (SDCC); L. Anderson, a caseworker at SDCC; Ms. Hill, an  
5 inmate employment opportunity officer at High Desert State Prison (HDSP);  
6 Dwayne Wilson, a culinary supervisor at HDSP; Ms. Gomez, a caseworker at  
7 SDCC; Mr. Livingston, a correctional officer and work supervisor at SDCC;  
8 Charles Daniels, the former Nevada Department of Corrections (NDOC) Director;  
9 William Hutchings, a former SDCC warden; Silver State Industries; Brian  
10 Williams, a warden at HDSP; and Jordan Noles, a canteen supervisor at SDCC.  
11 Plaintiff asserts that while incarcerated, he worked without pay or for pay well  
12 under minimum wage. He brings four causes of action: (1) violation of his  
13 Fourteenth Amendment due process rights; (2) violations of Article 15, Section  
14 16 and Article 1, Section 8 of the Nevada Constitution; (3) violations of Article 1,  
15 Section 1 of the Nevada Constitution; and (4) violations of California laws.

16 **III. DISCUSSION**

17 As Judge Albregts explained, the Court previously granted Plaintiff's  
18 request to proceed *in forma pauperis* and screened the first amended complaint  
19 pursuant to 28 U.S.C. § 1915. (ECF Nos. 3, 12). The Court dismissed the  
20 complaint with leave to amend and required that an amended complaint be filed  
21 by January 2, 2024. (ECF No. 12.) Judge Albregts informed Plaintiff that failure  
22 to comply with the order would result in recommended dismissal of the case. (*Id.*  
23 at 6.) Plaintiff did not file an amended complaint or request an extension to the  
24 deadline for doing so. As such, Judge Albregts recommended dismissal without  
25 prejudice.

26 Plaintiff filed an objection to the R&R, requesting that the Court remove  
27 this case to the Ninth Circuit Court of Appeals. (ECF No. 14 at 1.) This Court  
28 cannot remove this case to the Ninth Circuit. Plaintiff may file a notice of appeal

1 from this order to the Ninth Circuit.

2 In the objection, Plaintiff explains that he did not feel an amendment to the  
3 complaint was necessary. (*Id.* at 2.) Plaintiff also makes several objections to  
4 Judge Albregt’s prior order dismissing his amended complaint without prejudice.

5 Plaintiff argues that the Court ignored the plain language of Article 15,  
6 Section 16 of the Nevada Constitution and ignored his contention that several  
7 defendants were liable for violating his right to receive minimum wage under the  
8 Nevada constitution. (*Id.*) In his order dismissing Plaintiff’s complaint without  
9 prejudice, Judge Albregts discussed this claim and explained that although  
10 Article 15, Section 16 provides a mandated minimum wage, the Nevada Supreme  
11 Court has concluded that Article 15, Section 16 does not protect inmates working  
12 in inmate work programs. (ECF No. 12 at 4-5 (citing *Gonzalez v. State*, 515 P.3d  
13 318 (Nev. 2022).)

14 Plaintiff also argues that the Court misapplied state law which classified  
15 Plaintiff as a state employee, which he is not. (ECF No. 14 at 3.) Judge Albregts  
16 explained that Plaintiff could amend his complaint to explain whether he worked  
17 for a private employer, rather than a state entity. (ECF No. 12 at 3-4.) Plaintiff  
18 has declined to do so.

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1 **IV. CONCLUSION**

2 It is therefore ordered that Plaintiff's objection (ECF No. 14) is overruled  
3 and Judge Albregts's report and recommendation (ECF No. 13) is adopted in full.

4 Accordingly, this action is DISMISSED without prejudice.

5 Plaintiff's motion for a status check and to add supplemental authority  
6 (ECF No. 15) is DENIED AS MOOT.

7 The Clerk of Court is directed to ENTER JUDGMENT accordingly.

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9 DATED THIS 22<sup>nd</sup> day of November 2024.

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13 ANNE R. TRAUM  
14 UNITED STATES DISTRICT JUDGE

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