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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

|                                  |   |                       |
|----------------------------------|---|-----------------------|
| JASON SONNTAG,                   | ) | 3:09-cv-00637-ECR-VPC |
|                                  | ) |                       |
| Plaintiff,                       | ) |                       |
|                                  | ) |                       |
| vs.                              | ) | <u>Order</u>          |
|                                  | ) |                       |
| KENNETH GURRIES, <i>et al.</i> , | ) |                       |
|                                  | ) |                       |
| Defendants.                      | ) |                       |
|                                  | ) |                       |
|                                  | ) |                       |

On March 27, 2012, the Magistrate Judge filed a Report and Recommendation (#156), recommending that Defendants' Second Motion for Summary Judgment (#138) be granted in part and denied in part, and that Plaintiff's Motion to Strike (#147) be denied. No objections were timely filed.

The Report and Recommendation (#156) recommends that summary judgment be granted in favor of Defendant Carroll as to Plaintiff's claim of excessive force in Count I, and that summary judgment be denied with respect to the remaining claims. The Magistrate Judge further recommends that Plaintiff's Motion to Strike (#147) be denied as moot. Plaintiff requests that we strike docket numbers 136 and 137, a motion to reconsider and the opposition thereto. The Court denied the motion to reconsider (#136) and therefore Plaintiff's Motion to Strike ##136, 137 (#147) is moot.

**IT IS, THEREFORE, HEREBY ORDERED** that the Report and Recommendation (#156) is **APPROVED AND ADOPTED**. Defendants' Motion

1 for Summary Judgment (#138) is **GRANTED IN PART AND DENIED IN PART** on  
2 the following basis. Summary judgment is granted with respect to  
3 Plaintiff's claim of excessive force against Defendant Carroll in  
4 Count I, and denied with respect to (1) Count I excessive force and  
5 failure to protect against Defendant Gurries and failure to protect  
6 against Defendant Carroll; (2) Count III excessive force against  
7 Defendant Kelly based on supervisory liability and failure to  
8 protect against Defendants Mays and Kelly; and (3) Count IV  
9 excessive force against Defendant Kelly and failure to protect  
10 against Defendants Mays and Kelly. Defendants' motion for summary  
11 judgment based on qualified immunity is also denied.

12 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Strike (#147)  
13 is **DENIED** as moot.

14  
15 DATED: June 18, 2012.

16   
17 UNITED STATES DISTRICT JUDGE