

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

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN FERNANDEZ,
#20483

Plaintiff,

vs.

STATE OF NEVADA, *et al.*,

Defendants.

3:10-cv-00373-ECR-RAM

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff’s application to proceed *in forma pauperis* is granted (docket #1).

The court’s records reflect that plaintiff filed a substantially identical complaint in No. 3:06-cv-00628-LRH-RAM and that the first-filed matter remains pending before the court. In both complaints, plaintiff alleges the same violations of his Fourteenth Amendment due process rights with respect to the potentially indefinite lack of review of his parole eligibility by the Psychological Review Panel. The court notes that a Report and Recommendation was entered on October 28, 2010 in the first-filed matter recommending that plaintiff be granted injunctive relief requiring that he receive a hearing before the Psychological Review Panel within 45 days (*see* 3:06-cv-00628-LRH-RAM, docket #506).

Accordingly, this action is dismissed with prejudice as duplicative of the first-filed action.

IT IS THEREFORE ORDERED that plaintiff’s application to proceed *in forma pauperis* (docket #1) without having to prepay the full filing fee is **GRANTED**; plaintiff shall not be required to pay an initial installment fee. Nevertheless, the full filing fee shall still be due, pursuant to 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform Act of 1996. The movant herein is

1 permitted to maintain this action to conclusion without the necessity of prepayment of fees or costs or
2 the giving of security therefor. This order granting *in forma pauperis* status shall not extend to the
3 issuance of subpoenas at government expense.

4 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. § 1915, as amended by the
5 Prisoner Litigation Reform Act of 1996, the Nevada Department of Corrections shall pay to the Clerk
6 of the United States District Court, District of Nevada, 20% of the preceding month's deposits to the
7 account of Kevin Fernandez, **Inmate No. 20483** (in months that the account exceeds \$10.00) until the
8 full \$350 filing fee has been paid for this action. The Clerk shall send a copy of this order to the
9 attention of Albert G. Peralta, Chief of Inmate Services for the Nevada Department of Prisons, P.O. Box
10 7011, Carson City, NV 89702.

11 **IT IS FURTHER ORDERED** that, even if this action is dismissed, or is otherwise
12 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by the
13 Prisoner Litigation Reform Act of 1996.

14 **IT IS FURTHER ORDERED** that the Clerk shall **FILE** the complaint (docket #4-1).

15 **IT IS FURTHER ORDERED** that this action is **DISMISSED** with prejudice as
16 duplicative of No. 3:06-cv-00628-LRH-RAM.

17 **IT IS FURTHER ORDERED** that plaintiff's motion for leave to file complaint with
18 additional pages (docket #4) is **DENIED** as moot.

19 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment accordingly
20 and close this action.

21
22 DATED this 17th day of November, 2010.

23
24 
25 UNITED STATES DISTRICT JUDGE
26