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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

KELLY KOERNER,)	
)	
Plaintiff,)	3:11-cv-00116-LRH-VPC
)	
v.)	
)	<u>ORDER</u>
JAMES GREG COX, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

Before this Court is the Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#32¹) entered on December 8, 2011, recommending granting in part and denying in part Defendants’ Motion to Dismiss (#19) filed on July 12, 2011. Plaintiff filed his Non Objection to Magistrate Judge’s Report and Recommendation (#33) on December 20, 2011. Defendants did not file a reply. The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)B and the Local Rules of Practice, LR IB 1-4.

The Court has conducted its *de novo* review in this case, has fully considered the non objection of the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge’s Report and Recommendation (#32) entered on December 8, 2011, should be

¹Refers to court’s docket number.

1 adopted and accepted.

2 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#32)
3 entered on December 8, 2011, is adopted and accepted, and Defendant's Motion to Dismiss (#19) is
4 **GRANTED in part and DENIED in part** as follow:

- 5 1. Defendants' motion to dismiss Defendants in their official capacities based on Eleventh
6 Amendment immunity should be **GRANTED**, and Plaintiff's monetary damages claims
7 against Defendants in their official capacities should be **DISMISSED with prejudice**; and
- 8 2. Defendants' motion to dismiss based on Plaintiff's failure to state a claim, Defendants' lack
9 of personal participation, and qualified immunity should be **DENIED without prejudice**.

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11 IT IS SO ORDERED.

12 DATED this 10th day of January, 2012.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE