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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

VICTOR TAGLE, SR., )  
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 Plaintiff, )  
 )  
 vs. )  
 )  
 STATE OF NEVADA, *et al.*, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

3:16-cv-00148-MMD-WGC

**ORDER**

Re: ECF No. 121

Before the court is Plaintiff’s August 24, 2017 filing which seeks (1) copies of all of the civil complaints which Plaintiff has filed, and (2) dismissal of Magistrate Judge William G. Cobb as the assigned Magistrate Judge to this case (and various other relief as against Deputies Attorney General Hardcastle and Albright). (ECF Nos. 121, 122.)

Because the court’s Local Rules restrict a motion or other filing to one distinct topic, LR IC 2-2(b), the court clerk lodged Plaintiff’s motion for copies as ECF No. 121. The component of Plaintiff’s motion seeking the dismissal of Magistrate Judge William G. Cobb (and certain other relief as against the Attorney General’s Office) has been lodged as ECF No. 122.

Defendant Rowley opposed Plaintiff’s motion in his combined response to ECF Nos. 121 and 122 (ECF No. 143). Plaintiff requested an extension of time to reply to Defendant’s opposition (ECF No. 146), which the court granted. (ECF No. 147.) Plaintiff filed a combined reply to Defendant’s opposition (ECF No. 150).

This order pertains to Plaintiff’s request for copies of the complaints in twenty-seven (27) cases Plaintiff has filed and/or has pending in the United States District Court (ECF No. 121 at p. 5.) The court will address the issues in ECF No. 122 in a separate order.

1 **BACKGROUND**

2 Plaintiff is an inmate in the custody of the Nevada Department of Corrections. He commenced  
3 a civil rights action for events that took place while Plaintiff was incarcerated at the Ely State Prison  
4 (ESP). In screening Plaintiff’s complaint, District Judge Miranda M. Du allowed a claim for alleged  
5 excessive force to proceed against a single defendant, ESP custodial officer C. Rowly<sup>1</sup>. District Judge  
6 Du dismissed the other Defendants Plaintiff had sued.<sup>2</sup>

7 In ECF No. 121 at 3, Plaintiff contends the undersigned either ordered or somehow orchestrated  
8 in concert with one or more Deputies Attorney General the confiscation of some or all of his litigation  
9 files while he was housed at Lovelock Correctional Center (LCC).<sup>3</sup> As such, he seeks duplication at  
10 court expense copies of the complaints he has filed in twenty-seven (27) civil actions in the U.S. District  
11 Court for the District of Nevada.

12 **DISCUSSION**

13 The record in the now extensive docket reflects this court addressed the matter of NDOC alleged  
14 confiscation of his legal documents at a hearing on June 19, 2017, regarding ECF No. 55, Plaintiff’s  
15 Motion for Evidentiary Hearing, the subject of which related to LCC’s removal of a number of legal  
16 storage boxes from his cell. The issue first arose, however, when Plaintiff filed a “Motion for Court  
17 Intervention” (ECF No. 40) wherein he contended, *inter alia*, that NDOC under the alleged direction of  
18 the Attorney General’s Office, through Lt. Olivas, confiscated Plaintiff’s legal documents. The  
19 Defendant’s responsive memorandum (ECF No. 49) to Plaintiff’s motion for court intervention  
20 represented the scenario of events regarding the confiscation of certain of his multiple boxes in his cell  
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24 <sup>1</sup> Custodial Officer Rowly’s name and spelling has subsequently been corrected to appear as “Corey  
25 Rowley.” See ECF No. 19, Defendant’s Notice of Acceptance of Service.

26 <sup>2</sup> Plaintiff’s motion also asserts that Magistrate Judge Cobb “improperly dismissed” named Defendants  
27 McDaniel, Baker, Caldwell and State of Nevada from this lawsuit. (ECF No. 121 at 2-5.) This court has  
previously addressed this contention in its order of August 28, 2017, advising Plaintiff that these Defendants  
were dismissed by District Judge Du in the screening order, not by the undersigned. (ECF No. 125.)

28 <sup>3</sup> Plaintiff is currently housed at High Desert State Prison.

1 at LCC, as follows<sup>4</sup>:

2 “... Lt. Olivas denies that she confiscated Mr. Tagle’s legal documents  
3 and placed him in segregation to retaliate against him, and she denies that  
4 she threatened to destroy his legal documents. *See* Exhibit B: Declaration  
5 of Lieutenant Valaree Olivas. [Deceased Clark County Discovery  
6 Commissioner Chris] Beecroft obviously could not retaliate or direct  
7 retaliation against Plaintiff, because Mr. Beecroft passed away on  
8 December 26, 2016. *See* Exhibit C: Obituary of Chris Beecroft Jr.  
9 (footnote omitted.)<sup>5</sup> Defendant cannot make any representations regarding  
10 unnamed Deputies Attorney General or an unnamed NDOC guard, but  
11 the facts of this issue demonstrate that Plaintiff is not a victim of  
12 retaliation.

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**B. Plaintiff blatantly misrepresents the confiscation of his legal documents.**

21 NDOC Administrative Regulation (“AR”) 722.04(13)(E) restricts an  
22 inmate to three legal boxes in his cell. *See* attached Exhibit F: AR 722.  
23 When an inmate has excess personal property, such as boxes of legal  
24 documents, AR 711.01(4)(C) and 711.01(4)(D)(5) direct NDOC officials  
25 to confiscate the property. *See* attached Exhibit G: AR 711. AR  
26 711.01(4)(C) also directs NDOC officials to confiscate the excess  
27 personal property of an inmate placed in restrictive custody. When an  
28 inmate’s personal property is confiscated, NDOC staff makes an  
inventory of the property and securely stores the property. AR  
711.01(4)(D)(2).

Here, Plaintiff had five legal boxes, a fact he concedes in his request.  
ECF No. 40 at 1. This exceeds the number of legal boxes he may possess  
in his cell. AR 722.04(13)(E). On April 13, 2017, Officer J. Gouveia  
informed Plaintiff that he exceeded the number of legal boxes allowed  
and told him to remove two of the five boxes. *See* Exhibit D. The next  
day, Lt. Olivas discussed this issue with Plaintiff. *See* Exhibit B. She told  
him that he could only have three boxes in his cell and that his extra  
boxes would be stored, not destroyed. *Id.* Plaintiff next discussed this

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<sup>4</sup> Before the filing of Defendant’s memorandum (ECF No. 49), this court denied Plaintiff’s motion (ECF No. 40), advising Plaintiff the court was not authorized to intervene in the daily operations of the Nevada Department of Corrections and that Plaintiff’s recourse was to follow NDOC’s grievance procedures and/or consider filing a new action if the issues are not resolved via grievances. (ECF No. 41.) Although Defendant’s memorandum was filed after the court’s order was entered, because it is explanatory of the alleged confiscation contention, the court sets forth excerpts of Defendant’s memorandum (ECF No. 49) in this order.

The exhibits referred to in the excerpted portions of Defendant’s memorandum are not duplicated in this order but may be found in the docket at ECF No. 49-1 through 49-7.

The court will also at this juncture point out that Plaintiff’s motions (ECF Nos. 40 and 55) did not in any fashion pertain to ESP Custodial Officer - and sole Defendant - C. Rowley. *See*, ECF No. 98.

<sup>5</sup> Plaintiff’s confiscation argument also asserted that former Clark County Discovery Commissioner Chris Beecroft, who passed away several months before the LCC contention of excessive file boxes were being stored in Plaintiff’s cell, was also somehow involved in the conspiracy.

1 issue with Pamela Feil, the law library supervisor, on April 17, 2017. *See*  
2 Exhibit E. Ms. Feil also told him that he is allowed a maximum of three  
3 boxes and that his extra boxes would be stored, not destroyed. *Id.* On  
4 April 19, 2017, Lt. Olivas ordered Plaintiff to remove two of his legal boxes  
5 so that the boxes could be stored in legal storage. *Id.* Plaintiff refused to  
6 comply with Lt. Olivas's direct order, and Plaintiff said that he would "go  
7 to the hole." *Id.*

8 Plaintiff claims that he did as he was told, ECF No. 40, but his claim is  
9 unambiguously false and he has misrepresented the facts of this issue to the  
10 Court.

### 11 **C. Plaintiff's request does not warrant any relief.**

12 As this Court can plainly see, Plaintiff's pleading blatantly misrepresents the  
13 confiscation of his legal documents. Plaintiff's documents were confiscated  
14 because he had more boxes than the ARs allow and because he was placed  
15 in segregation—not because Mr. Beecroft, Ms. Hardcastle, Lt. Olivas,  
16 Officer Hoffman, an unnamed Deputy Attorney General, or an unnamed  
17 NDOC guard retaliated against him. Furthermore, Plaintiff was very  
18 specifically informed that the ARs and housing rules permit him to have no  
19 more than three boxes of legal documents in his cell and that the extra boxes  
20 would be placed in storage—not destroyed.

21 Moreover, LCC Associate Warden William Sandie informed counsel that  
22 Plaintiff reviewed his legal documents and voluntarily reduced his number  
23 of boxes from five to *one*. Warden Sandie also confirmed that Plaintiff's  
24 remaining documents are in storage in the LCC law library and that Plaintiff  
25 has been returned to general population. *See* Exhibit A – Declaration of  
26 Gerri Lynn Hardcastle.

27 Because the evidence Defendant presents unmistakably demonstrates that  
28 (1) Plaintiff has misrepresented the confiscation of his legal documents in  
his pleading before the Court, (2) LCC staff never threatened to destroy his  
legal documents, (3) Plaintiff was placed in administrative segregation due  
to his failure to comply with the ARs, housing rules, and a direct order from  
Lt. Olivas, and (4) Mr. Beecroft, Ms. Hardcastle, Lt. Olivas,  
Officer Hoffman, an unnamed Deputy Attorney General, and an unnamed  
NDOC guard are not retaliating against Plaintiff, Plaintiff is not entitled to  
the relief he requests."

On May 9, 2017, Plaintiff renewed his contention that his legal documents were being illegally  
confiscated in a "Motion for Evidentiary Hearing." (ECF No. 55.) The Defendant again responded to  
Plaintiff's accusations. (ECF No. 71.) On May 25, 2017, this court scheduled a hearing to be conducted  
on June 19, 2017, regarding numerous motions filed by Plaintiff, including ECF No. 55 with respect to  
Plaintiff's contentions about the alleged confiscation of his legal storage boxes. After hearing Plaintiff's  
extensive exhortations regarding the alleged seizure of his files (*see* Transcript, ECF No. 99), the court  
denied the relief sought concerning the alleged destruction of Plaintiff's files, stating in its Minutes as

1 follows:

2 The court next addresses Plaintiff's motion for an evidentiary hearing  
3 (ECF No. 55). Mr. Tagle contends NDOC correctional officers have  
4 illegally removed legal storage boxes from his cell and have allegedly  
5 destroyed the documents contained within them. DAG Hardcastle reports  
6 that pursuant to NDOC Administrative Regulations, an inmate may only  
7 have up to three legal boxes in his cell. Correctional officers explained to  
8 Mr. Tagle that he would need to consolidate his five to six legal boxes to  
9 three legal boxes. DAG Hardcastle represents Mr. Tagle at first refused  
10 to consolidate his legal boxes, but ultimately consolidated his legal boxes  
11 down to one and the remaining boxes are stored in the institution's law  
12 library. DAG Hardcastle indicates the legal boxes are neither destroyed  
13 nor tampered with. Furthermore, Mr. Tagle is able to access the legal  
14 boxes at any time he chooses through the law library. DAG Hardcastle,  
15 however, is not able to state for certain the protocol Mr. Tagle must  
16 employ to review the documents within his legal boxes.

17 The court next discusses the relevance, if any exists, as to Plaintiff's  
18 assertions against former Clark County Discovery Commission Chris  
19 Beecroft (now deceased) and Chief Deputy Attorney General Clark Leslie  
20 in his motion for evidentiary hearing. The court hears statements from  
21 Mr. Tagle but is unable to connect any relevance Beecroft or Leslie may  
22 have to this case or the Plaintiff's motion itself; neither is a defendant in  
23 this action.

24 After hearing from the parties, the court finds that the Defendant's  
25 response to Plaintiff's motion (ECF No. 49) adequately addresses the  
26 subject of Plaintiff's legal boxes being stored at the institution's law  
27 library. The court instructs DAG Hardcastle to provide Mr. Tagle a  
28 courtesy copy of the Defendant's filing, ECF No. 49.

IT IS THEREFORE ORDERED that Plaintiff's motion for an evidentiary  
hearing (ECF No. 55) is **DENIED**.<sup>6</sup>

Whatever seizure occurred by NDOC of Plaintiff's multiple file boxes was not the result of any  
order asserted by this court, nor any involvement by the Offices of the Attorney General - and certainly  
not the consequences by any act or omission by the one remaining Defendant in this action, i.e., Rowley.  
Instead, the confiscation occurred as a result of Plaintiff's failure to follow the reasonable rules of the  
institution where Plaintiff is an inmate. Plaintiff's failure to adhere to NDOC administrative regulations  
is a bed of his own making.

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<sup>6</sup>Although Plaintiff was advised in the 6/19/17 Minutes of his ability to file an objection to the  
orders set forth within the Minutes of Proceedings (ECF No. 98 at 3), it does not appear Plaintiff availed  
himself of this opportunity.

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**CONCLUSION**

The court therefore concludes that any seizure of Plaintiff's legal storage boxes was not the product of any nefarious activity either by the Attorney General's Office or this court. Nor was it occasioned by the only named Defendant in this action, C. Rowley, who was and appears to still be a custodial officer at ESP and had nothing to do with the alleged seizure of Plaintiff's files.

The court **DENIES** Plaintiff's motion (ECF No. 121) for duplication at court expense of the complaints in Plaintiff's twenty-seven (27) civil actions in the U.S. District Court.

Any party wishing to object to this order may file, pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 3-1, specific written objections within fourteen (14) days of receipt. The deadline to file and serve any responses to the objections is fourteen (14) days after service of the objection. Replies will be allowed only with leave of the court.

**IT IS SO ORDERED.**

DATED: September 27, 2017.

*William G. Cobb*

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WILLIAM G. COBB  
UNITED STATES MAGISTRATE JUDGE