

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
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHRISTOPHER I. STREET,
Plaintiff,
v.
ISIDRO BACA et al.,
Defendants.

3:16-cv-00266-RCJ-WGC
**ORDER CLARIFYING
SCREENING ORDER**

I. DISCUSSION

On January 12, 2017, the Court entered a screening order. (ECF No. 4). In the introduction paragraph of the order, the Court stated that the complaint was dismissed with leave to amend. (*Id.* at 1). However, the body of the order states that Plaintiff presents a colorable claim and permits the claim to proceed and then sends the case to mediation. (*Id.* at 3-4). The Court now clarifies that Plaintiff has stated a colorable Eighth Amendment claim and that the case will proceed to mediation. The Court clarifies that the complaint is not dismissed.

The conclusion of the order states that the Court grants Plaintiff’s application to proceed *in forma pauperis* but stays the case for mediation. (*Id.* at 4). The Court clarifies that a decision on Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) is deferred in order to give Plaintiff and Defendants an opportunity to settle this case prior to the determination of the filing fee. The Court directs the Clerk of the Court to vacate the granting of the application to proceed *in forma pauperis* and to reinstate the application to proceed *in forma pauperis* as an active pending motion, which the Court will address after mediation.

1 **II. CONCLUSION**

2 For the foregoing reasons, IT IS ORDERED that the order granting the application to
3 proceed *in forma pauperis* (ECF No. 1) is vacated. The Clerk of the Court is directed to
4 reinstate the application to proceed *in forma pauperis* (ECF No. 1) as an active, pending
5 motion. The Court defers a decision on the application to proceed *in forma pauperis* (ECF No.
6 1) until after mediation.

7 IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has
8 permitted to proceed, this action is **STAYED** for ninety (90) days¹ to allow Plaintiff and
9 Defendant(s) an opportunity to settle their dispute before the \$350.00 filing fee is paid, an
10 answer is filed, or the discovery process begins. During this ninety-day stay period, no other
11 pleadings or papers shall be filed in this case, and the parties shall not engage in any
12 discovery. The Court will refer this case to the Court's Inmate Early Mediation Program, and
13 the Court will enter a subsequent order. Regardless, on or before ninety (90) days from the
14 date the Court entered its January 12, 2017 screening order, the Office of the Attorney
15 General shall file the report form attached to the January 12, 2017 screening order regarding
16 the results of the 90-day stay, even if a stipulation for dismissal is entered prior to the end of
17 the 90-day stay. If the parties proceed with this action, the Court will then issue an order
18 setting a date for Defendants to file an answer or other response. Following the filing of an
19 answer, the Court will issue a scheduling order setting discovery and dispositive motion
20 deadlines.

21 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
22 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
23 differently. A compromise agreement is one in which neither party is completely satisfied with
24 the result, but both have given something up and both have obtained something in return.

25 IT IS FURTHER ORDERED that if the case does not settle, Plaintiff will be required to
26 pay the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to proceed *in*

27
28

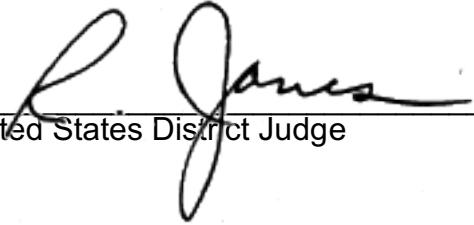
¹ From the date of the January 12, 2017 screening order.

1 *forma pauperis*, the fee will be paid in installments from his prison trust account. 28 U.S.C.
2 § 1915(b). If Plaintiff is not allowed to proceed *in forma pauperis*, the \$350.00 will be due
3 immediately.

4 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from the
5 inmate mediation program, that party shall file a “motion to exclude case from mediation” on
6 or before twenty-one (21) days from the date of January 12, 2017 screening order. The
7 responding party shall have seven (7) days to file a response. No reply shall be filed.
8 Thereafter, the Court will issue an order, set the matter for hearing, or both.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: This 24th day of January, 2017.


United States District Judge