

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**

DWAYNE HART,  
Plaintiff,  
v.  
ISIDRO BACA et al.,  
Defendants.

3:16-cv-00274-MMD-VPC  
**ORDER**

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former state prisoner. In compliance with this Court's order, Plaintiff has submitted an application to proceed in district court without prepaying fees or costs following his release from prison. (ECF No. 13, 14). Based on the financial information provided, the Court grants Plaintiff leave to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915(a)(1).<sup>1</sup>

On January 5, 2017, the Court entered a screening order. (ECF No. 3). A follow-up order imposed a 90-day stay and the Court entered a subsequent order assigning the case to mediation by a court-appointed mediator. (ECF No. 7, 10). The Office of the Attorney General has filed a status report indicating that settlement was not reached and informing the Court of its intent to proceed with this action. (ECF No. 12).

**IT IS THEREFORE ORDERED** that:

1. Plaintiff's application to proceed in district court without prepaying fees or costs (ECF No. 14) is **GRANTED**.

---

<sup>1</sup> Plaintiff is not subject to the requirements of 28 U.S.C. § 1915(a)(2), (b) because he is no longer a "prisoner" within the meaning of the statute. See 28 U.S.C. § 1915(h).

1           2.       Plaintiff is permitted to maintain this action to conclusion without the necessity  
2 of prepayment of any additional fees or costs or the giving of security therefor. This order  
3 granting leave to proceed in district court without prepaying fees or costs shall not extend to  
4 the issuance and/or service of subpoenas at government expense.

5           3.       The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy  
6 of Plaintiff's complaint (ECF No. 4) on the Office of the Attorney General of the State of  
7 Nevada, attention Kat Howe.

8           4.       Service must be perfected within ninety (90) days from the date of this order  
9 pursuant to Fed. R. Civ. P. 4(m).

10          5.       Subject to the findings of the screening order and follow-up order (ECF No. 3,  
11 7), within **twenty-one (21) days** of the date of entry of this order, the Attorney General's Office  
12 shall file a notice advising the Court and Plaintiff of: (a) the names of the defendants for whom  
13 it accepts service; (b) the names of the defendants for whom it does not accept service, and  
14 (c) the names of the defendants for whom it is filing the last-known-address information under  
15 seal. As to any of the named defendants for whom the Attorney General's Office cannot  
16 accept service, the Office shall file, *under seal*, but shall not serve the inmate Plaintiff the last  
17 known address(es) of those defendant(s) for whom it has such information. If the last known  
18 address of the defendant(s) is a post office box, the Attorney General's Office shall attempt  
19 to obtain and provide the last known physical address(es).

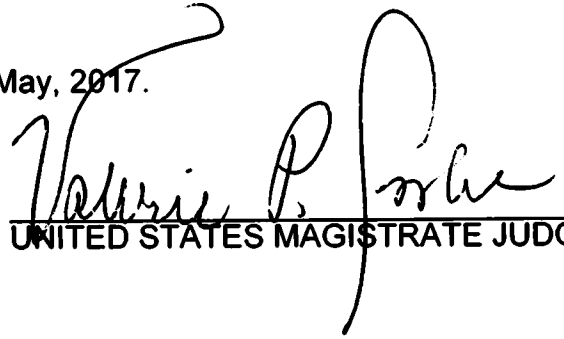
20          6.       If service cannot be accepted for any of the named defendant(s), Plaintiff shall  
21 file a motion identifying the unserved defendant(s), requesting issuance of a summons, and  
22 specifying a full name and address for the defendant(s). For the defendant(s) as to which the  
23 Attorney General has not provided last-known-address information, Plaintiff shall provide the  
24 full name and address for the defendant(s).

25          7.       If the Attorney General accepts service of process for any named defendant(s),  
26 such defendant(s) shall file and serve an answer or other response to the complaint within  
27 **sixty (60) days** from the date of this order.

28          8.       Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has been

1 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document  
2 submitted for consideration by the Court. Plaintiff shall include with the original document  
3 submitted for filing a certificate stating the date that a true and correct copy of the document  
4 was mailed or electronically filed to the defendants or counsel for the defendants. If counsel  
5 has entered a notice of appearance, Plaintiff shall direct service to the individual attorney  
6 named in the notice of appearance, at the physical or electronic address stated therein. The  
7 Court may disregard any document received by a district judge or magistrate judge which has  
8 not been filed with the Clerk, and any document received by a district judge, magistrate judge,  
9 or the Clerk which fails to include a certificate showing proper service.

10  
11 Dated this 22<sup>nd</sup> day of May, 2017.

12  
13   
14 \_\_\_\_\_  
15 UNITED STATES MAGISTRATE JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28