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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN FERNANDEZ,

Plaintiff,

vs.

ISIDRO BACA et al.,

Defendants.

3:16-cv-00350-RCJ-WGC

ORDER

This is a prisoner civil rights complaint under 42 U.S.C. § 1983. Plaintiff has sued thirty-nine Defendants for various constitutional violations arising out of their having allegedly poisoned him with psychotropic drugs via his food at Northern Nevada Correctional Center. Plaintiff has attached a proposed complaint to his application to proceed in forma pauperis. Because Plaintiff has more than three “strikes” under the Prison Litigation Reform Act, however, the Court ruled he could not proceed in forma pauperis. *See* 28 U.S.C. § 1915(g).¹ First, in Case No. 3:13-cv-412, Judge Du dismissed Plaintiff’s complaint for failure to state a claim. Second, in Case No. 3:06-cv-511, Judge Sandoval dismissed the federal causes of action in Plaintiff’s complaint for failure to state a claim and remanded the state law claims to state court. Third and

¹ Plaintiff does not allege that he “is under imminent danger of serious physical injury.” *See id.* The alleged poisonings are alleged to have stopped on January 28, 2015, and Plaintiff alleges that he now resides in New Hampshire, far from Defendants.

1 fourth, in Case No. 1:13-cv-94 in the District of North Dakota, Judge Hovland dismissed
2 Plaintiff's complaint for failure to state a claim, and the Court of Appeals summarily affirmed
3 under Eighth Circuit Rule 47A(a), which indicates that the Court of Appeals did not simply
4 perceive no error below but found the appeal to be "frivolous and entirely without merit."

5 Because Plaintiff had three or more strikes, the Court ruled that Plaintiff would have to
6 pay the filing fee by May 14, 2017 or the Court would dismiss without prejudice without further
7 notice. The Court granted Plaintiff's motion to extend time, giving him until June 2, 2017 to pay
8 the fee or file a motion for reconsideration. Plaintiff chose the latter, and the Court declines to
9 reconsider.

10 CONCLUSION


11 IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 8) is DENIED.

12 IT IS FURTHER ORDERED that the Motion for Judicial Notice (ECF No. 7) is
13 GRANTED.

14 IT IS FURTHER ORDERED that the case is DISMISSED without prejudice, and the
15 Clerk shall enter judgment and close the case.

16 IT IS SO ORDERED.

17 Dated this ^{12th} ~~14th~~ day of ^{July} ~~June~~, 2017.

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20 _____
21 ROBERT C. JONES
22 United States District Judge
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