Coleman v. Robinson et al

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

STEVE COLEMAN, **Plaintiff**

Case No.: 3:17-cv-00310-MMD-WGC

Order

v.

Re: ECF No. 51

ROBINSON, et. al.,

Defendants

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Plaintiff has filed a Motion to Dismiss a Defendant. (ECF No. 51.) Defendants do not oppose the motion. (ECF No. 54.)

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Plaintiff moves under Federal Rule of Civil Procedure 71.1 to dismiss defendant Colter 12 Rynerson because he would not be able to prove a deliberate indifference claim against Rynerson.

Rule 71.1 applies to special proceedings condemning real or personal property and is not

13 He mentions that he seeks a dismissal of Rynerson without prejudice.

14 15 applicable to this action. Federal Rule of Civil Procedure 41(a)(2), which governs voluntarily

16 dismissal of an action at the request of a plaintiff. Federal Rule of Civil Procedure governs

amendment of pleadings. Federal Rule of Civil Procedure 21 governs misjoinder of parties. Since

18 Plaintiff does not seek to dismiss the action but only a defendant, it appears that voluntary dismissal of a defendant would be appropriate under either Rule 15 or Rule 21, and not Rule 41. Under Rule

20|| 15(a)(2), Plaintiff may seek leave to amend a pleading. Rule 21 states: "On motion or on its own,

the court may at any time, on just terms, add or drop a party."

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The court finds that dismissal of Defendant Rynerson is appropriate under Rule 21.

Therefore, Plaintiff's motion (ECF No. 51) is **GRANTED** and defendant Rynerson is **DISMISSED** from this action **WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated: October 18, 2019.

Willen G. Cobb

William G. Cobb

United States Magistrate Judge