

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**

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

3:17-cv-00510-MMD-WGC

**REPORT & RECOMMENDATION**  
**OF U.S. MAGISTRATE JUDGE**

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Before the court is Plaintiff’s application to proceed in forma pauperis (IFP). (ECF No. 1.) Plaintiff is a prisoner proceeding *pro se*. He has submitted an IFP application, and a complaint which he labels a “tort action,” and requests a jury pursuant to 42 U.S.C. § 1985, against the State of Nevada and Deputy Attorney Generals for, *inter alia*, conspiracy and corruption. (ECF No. 1-1.)

Pursuant to 28 U.S.C. § 1915(g), “if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted,” he may not proceed IFP and, instead, must pay the full filing fee in advance unless he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

///  
///  
///

1 The court has, on at least three prior occasions, dismissed civil actions commenced by plaintiff  
2 while incarcerated for maliciousness or failure to state a claim upon which relief may be granted. *See*  
3 *Tagle v. State of Nevada*, 2:15-cv-02083-RCJ-GWF (dismissed for failure to state a claim); *Tagle v.*  
4 *State of Nevada*, 2:15-cv-02358-MMD-PAL (dismissed for maliciousness and failure to state a claim);  
5 and *Tagle v. State of Nevada*, 2:16-cv-00852-JAD-VCF (dismissed for maliciousness and failure to state  
6 a claim). The court takes judicial notice of the records in these matters. Plaintiff has not plausibly alleged  
7 he is under imminent danger of serious physical injury; therefore, his application to proceed in forma  
8 pauperis should be denied, and he should be ordered pay the full filing fee within thirty days of the date  
9 of an order adopting this report and recommendation, or his action will be dismissed.

10 **RECOMMENDATION**

11 **IT IS HEREBY RECOMMENDED** that the District Judge enter an order **DENYING**  
12 Plaintiff's application to proceed IFP (ECF No. 1); directing Plaintiff to pay the full filing fee within  
13 thirty days of any order adopting this report and recommendation; and, advising Plaintiff that a failure  
14 to do so will result in dismissal of this action.

15 Plaintiff should be aware of the following:

16 1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this  
17 Report and Recommendation within fourteen days of receipt. These objections should be titled  
18 "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points  
19 and authorities for consideration by the district judge.

20 2. That this Report and Recommendation is not an appealable order and that any notice of appeal  
21 pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of  
22 judgment by the district court.

23 DATED: August 31, 2017.

24 

25 WILLIAM G. COBB  
26 UNITED STATES MAGISTRATE JUDGE  
27  
28