

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEVIN LEE KENNEDY,

Plaintiff,

vs.

SCOTT HENROID, et al.,
Defendants.

Case No.: 3:18-00161-RCJ-CBC

ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Carla Baldwin Carry (ECF No. 7¹) entered on November 21, 2018, recommending that the Court grant Plaintiff’s application to proceed in forma pauperis (ECF No. 1) without having to prepay the full filing fee. No objection to the Report and Recommendation has been filed.

This action was referred to Judge Carry under 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has considered the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2.

¹ Refers to Court’s docket number.

1 IT IS HEREBY ORDERED that the Magistrate Judge's Report and
2 Recommendation (ECF No. 7) entered on November 21, 2018, is ADOPTED and
3 ACCEPTED.
4

5 IT IS FURTHER ORDERED that that Plaintiff's application to proceed in forma
6 pauperis (ECF No. 1) without having to prepay the full filing fee is granted. Plaintiff will
7 not be required to pay an initial installment fee. Nevertheless, the full filing fee will still
8 be due, under 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform Act.
9 The movant herein is permitted to maintain this action to conclusion without necessity of
10 prepayment of fees or costs or the giving of security therefor. This order granting in
11 forma pauperis status will not extend to the issuance and/or service of subpoenas at
12 government expense.
13

14 IT IS FURTHER ORDERED that, under 28 U.S.C. § 1915 (b)(2), the Nevada
15 Department of Corrections must pay to the Clerk of the United States District Court,
16 District of Nevada, 20% of the proceeding month's deposit to the account of Kevin Lee
17 Kennedy, #79138 (in months that the account exceeds \$10.00) until the full \$350.00
18 filing fee has been paid for this action. The Clerk will send a copy of this order to the
19 Chief of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011,
20 Carson City, NV 89702.
21

22 IT IS FURTHER ORDERED that, even if this action is dismissed, or is otherwise
23 unsuccessful, the full filing fee will still be due, under 28 U.S.C. §1915, as amended by
24 the Prisoner Litigation Reform Act.
25

26 IT IS FURTHER RECOMMENDED that Counts I and III be dismissed as
27 malicious with prejudice.
28

1 IT IS FURTHER RECOMMENDED that Count II be dismissed without prejudice
2 but without leave to amend at this time.

3 IT IS FURTHER RECOMMENDED that Count IV be dismissed without prejudice.

4
5 IT IS FURTHER RECOMMENDED that Plaintiff shall thirty days (30) to file an
6 amended complaint to the extent Plaintiff can assert facts that address the defects of
7 the complaint. Failure to file a timely amended complaint will result in a
8 recommendation that this case be dismissed in its entirety.

9
10 IT IS FURTHER RECOMMENDED that the Clerk of the Court shall send to
11 Plaintiff the approved form for filing a § 1983 complaint and instructions for the same. If
12 Plaintiff chooses to file a first amended complaint, he must use the approved form and
13 he shall write the words "First Amended" above the words "Civil Rights Complaint" in the
14 caption.

15
16 IT IS SO ORDERED.

17 Dated this 15th day of January, 2019.

18
19 
20 _____
21 ROBERT C. JONES
22 Senior District Judge
23
24
25
26
27
28