

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MANUEL D. ORELLANA,

Plaintiff,

v.

DR. ROMEO ARANAS, et al.,

Defendants.

Case No. 3:20-cv-0041-MMD-CLB

ORDER

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by Plaintiff Manuel Orellana, a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. ECF No. 4. Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on January 28, 2021 (ECF No. 5) permitting Plaintiff's Eighth Amendment claim of deliberate indifference to serious medical needs against Defendants Adamson and Donnelly could proceed but dismissing that claim without prejudice as against Defendant Aranas. The Court also dismissed without prejudice Plaintiff's Fourteenth Amendment claim against Defendants Carpenter, Adamson, Donnelly, and Aranas. The Court provided Plaintiff an opportunity to amend his complaint. As Plaintiff did not amend his complaint, the Court entered a further order, dated March 22, 2021 that this matter would proceed solely on the Eighth Amendment claim against Defendants Adamson and Donnelly and imposed a 90-day stay, which stay was extended to July 15, 2021, to provide the parties an opportunity to settle this matter. ECF Nos. 7, 13. The Court entered a subsequent order in which the

1 parties were assigned to mediation by a court-appointed mediator. ECF No. 10. The
2 Office of the Attorney General has filed a status report indicating that settlement has not
3 been reached and informing the Court of its intent to proceed with this action. ECF No.
4 15.

5 For the foregoing reasons, **THE COURT ORDERS** that:

6 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 4) is
7 **GRANTED**. Plaintiff is permitted to maintain this action to conclusion without the
8 necessity of prepayment of the filing fee in full or part, or prepayment of any additional
9 fees or costs, or the giving of security therefor.

10 2. This order granting leave to proceed *in forma pauperis* shall not extend to
11 the issuance and/or service of subpoenas at government expense.

12 3. While Plaintiff is not required to pre-pay the filing fee in full or part, the full
13 filing fee must still be paid by Plaintiff pursuant to 28 U.S.C. § 1915(b)(2). Accordingly,
14 Plaintiff is required to make monthly payments of 20% of the preceding month's income
15 credited to his account. The Nevada Department of Corrections shall determine and
16 forward this monthly payment from the account of Plaintiff Manuel D. Orellana,
17 #1007054 to the Clerk of the United States District Court, District of Nevada, in each
18 month that the account balance exceeds \$10.00 until the full \$350.00 filing fee has been
19 paid for this action. The Clerk of the Court shall **SEND** a copy of this order to the
20 Finance Division of the Clerk's Office. The Clerk of the Court shall also **SEND** a copy of
21 this order to the attention of the Chief of Inmate Services for the Nevada Department of
22 Corrections, P.O. Box 7011, Carson City, NV 89702.

23 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
24 a copy of Plaintiff's complaint (ECF No. 6) on the Office of the Attorney General of the
25 State of Nevada by adding the Attorney General of the State of Nevada to the docket
26 sheet. This does not indicate acceptance of service.

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

1 6. Subject to the findings of the screening orders (ECF No. 5, 7), within 21
2 days of the date of entry of this order, the Attorney General's Office shall file a notice
3 advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts
4 service; (b) the names of the defendants for whom it does not accept service, and (c)
5 the names of the defendants for whom it is filing the last-known-address information
6 under seal. As to any of the named defendants for whom the Attorney General's Office
7 cannot accept service, the Office shall file, under seal, but shall not serve the inmate
8 Plaintiff the last known addresses of those defendants for whom it has such information.
9 If the last known address of a defendant is a post office box, the Attorney General's
10 Office shall attempt to obtain and provide the last known physical address.

11 7. If service cannot be accepted for any named defendant, Plaintiff shall file a
12 motion identifying the unserved defendant, requesting issuance of a summons, and
13 specifying a full name and address for the defendant. For each defendant as to which
14 the Attorney General has not provided the defendant's last-known-address, Plaintiff
15 shall provide the full name and address for the defendant.

16 8. If the Attorney General accepts service of process for a named defendant,
17 each such defendant shall file and serve an answer or other response to the complaint
18 (ECF No. 6) within sixty (60) days from the date of this order.

19 9. Plaintiff shall serve upon defendants or, if an appearance has been
20 entered by counsel, upon their attorneys, a copy of every pleading, motion or other
21 document submitted for consideration by the Court. If Plaintiff electronically files a
22 document with the Court's electronic-filing system, no certificate of service is required.
23 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
24 mails the document to the Court, Plaintiff shall include with the original document
25 submitted for filing a certificate stating the date that a true and correct copy of the
26 document was mailed to the defendants or counsel for the defendants. If counsel has
27 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
28 named in the notice of appearance, at the physical or electronic address stated therein.

1 The Court may disregard any document received by a district judge or magistrate judge
2 which has not been filed with the Clerk, and any document received by a district judge,
3 magistrate judge, or the Clerk which fails to include a certificate showing proper service
4 when required.

5 10. This case is no longer stayed.

6 DATED THIS 16th day of July 2021.

7
8 
9 UNITED STATES MAGISTRATE JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28