

1

2

3

4

5

## 6 UNITED STATES DISTRICT COURT

## 7 DISTRICT OF NEVADA

8 \* \* \*

9 TARONTAE DAIJOHN JACKSON,

Case No. 3:21-cv-00063-MMD-CLB

10 Plaintiff,

ORDER

11 v.

12 PERRY RUSSELL, *et al.*,

13 Defendants.

14

15

16 **I. DISCUSSION**

17 On August 2, 2021, the Court issued a screening order permitting the Eighth  
18 Amendment claim for deliberate indifference to serious medical needs in Claim 1 to  
19 proceed against Perry Russell, dismissing some claims without leave to amend, and  
20 giving Plaintiff leave to amend the Eighth Amendment claim in Claim 2. (ECF No. 5 at  
21 12.) The Court granted Plaintiff 30 days from the date of that order to file an amended  
22 complaint. (ECF No. 5 at 12.) The Court specifically stated that if Plaintiff chose not to  
23 file a timely amended complaint, the action would proceed against Perry Russell only on  
24 the Eighth Amendment claim in Claim 1 for deliberate indifference to serious medical  
25 needs. (*Id.*) Because Plaintiff has not filed an amended complaint, pursuant to the  
26 screening order, this action shall proceed on that claim.

27 ///

28 ///

1           **II. CONCLUSION**

2           For the foregoing reasons, it is ordered that, pursuant to the Court's screening  
3 order (ECF No. 5), this action shall proceed against Perry Russell only on the Eighth  
4 Amendment claim in Claim 1 for deliberate indifference to serious medical needs.

5           It is further ordered that, given the nature of the claim(s) that the Court has  
6 permitted to proceed, this action is stayed for ninety (90) days to allow Plaintiff and  
7 Defendant(s) an opportunity to settle their dispute before the \$350.00 filing fee is paid, an  
8 answer is filed, or the discovery process begins. During this 90-day stay period and until  
9 the Court lifts the stay, no other pleadings or papers may be filed in this case, and the  
10 parties may not engage in any discovery, nor are the parties required to respond to any  
11 paper filed in violation of the stay unless specifically ordered by the court to do so. The  
12 Court will refer this case to the Court's Inmate Early Mediation Program, and the Court  
13 will enter a subsequent order. Regardless, on or before ninety (90) days from the date  
14 this order is entered, the Office of the Attorney General shall file the report form attached  
15 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is  
16 entered prior to the end of the 90-day stay. If the parties proceed with this action, the  
17 Court will then issue an order setting a date for Defendants to file an answer or other  
18 response. Following the filing of an answer, the Court will issue a scheduling order setting  
19 discovery and dispositive motion deadlines.

20           It is further ordered that "settlement" may or may not include payment of money  
21 damages. It also may or may not include an agreement to resolve Plaintiff's issues  
22 differently. A compromise agreement is one in which neither party is completely satisfied  
23 with the result, but both have given something up and both have obtained something in  
24 return.

25           It is further ordered that if the case does not settle, Plaintiff will be required to pay  
26 the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to proceed in  
27 forma pauperis, the fee will be paid in installments from his prison trust account. 28

1 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed in forma pauperis, the \$350.00 will  
2 be due immediately.

3 It is further ordered that if any party seeks to have this case excluded from the  
4 inmate mediation program, that party will file a “motion to exclude case from mediation”  
5 no later than 21 days prior to the date set for mediation. The responding party will have  
6 7 days to file a response. No reply will be filed. Thereafter, the Court will issue an order,  
7 set the matter for hearing, or both.

8 It is further ordered that the Clerk of the Court shall electronically serve a copy of  
9 this order, the original screening order (ECF No. 5) and a copy of Plaintiff’s complaint  
10 (ECF No. 6) on the Office of the Attorney General of the State of Nevada, by adding the  
11 Attorney General of the State of Nevada to the docket sheet. This does not indicate  
12 acceptance of service.

13 It is further ordered that the Attorney General’s Office shall advise the Court within  
14 twenty-one (21) days of the date of the entry of this order whether it will enter a limited  
15 notice of appearance on behalf of Defendants for the purpose of settlement. No defenses  
16 or objections, including lack of service, shall be waived as a result of the filing of the  
17 limited notice of appearance.

18 DATED: September 8, 2021.

19  
20   
21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9  
10 TARONTAE DAIJOHN JACKSON,  
11 Plaintiff,  
12 v.  
13 PERRY RUSSELL, et al.,  
14 Defendants.

Case No. 3:21-cv-00063-MMD-CLB  
REPORT OF ATTORNEY GENERAL  
RE: RESULTS OF 90-DAY STAY

15 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.**  
**THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

16  
17 On \_\_\_\_\_ [*the date of the issuance of the screening order*], the Court  
18 issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C.  
19 § 1915A, and that certain specified claims in this case would proceed. The Court ordered  
20 the Office of the Attorney General of the State of Nevada to file a report ninety (90) days  
21 after the date of the entry of the Court's screening order to indicate the status of the case  
22 at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby  
23 complies.

24 ///

25 ///

26 ///

27 ///

28 ///

## REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

**Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay.** [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

— A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

— A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

— No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

— No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter date].

— No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

— None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

\* \* \* \* \*

**Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check ONE of the four statements below and fill in any additional information as required, then proceed to the signature block.]

— The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (even if the paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

1         The parties engaged in settlement discussions and as of this date, the  
2        parties have not reached a settlement. The Office of the Attorney General  
therefore informs the Court of its intent to proceed with this action.  
3         The parties have not engaged in settlement discussions and as of this date,  
4        the parties have not reached a settlement. The Office of the Attorney  
General therefore informs the Court of its intent to proceed with this action.  
5         None of the above three statements fully describes the status of this case.  
6        Contemporaneously with the filing of this report, the Office of the Attorney  
7        General of the State of Nevada is filing a separate document detailing the  
status of this case.

8        Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

9        Attorney Name: \_\_\_\_\_  
10        Print

Signature

11        Address: \_\_\_\_\_  
12        \_\_\_\_\_  
13        \_\_\_\_\_

Phone: \_\_\_\_\_

14        Email: \_\_\_\_\_