
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

MICHAEL P. NELDER,

Plaintiff,

v.

KELLY WORLEY,

Defendant.

MEMORANDUM DECISION & ORDER

Case No. 2:12-CV-245-DB

District Judge Dee Benson

Plaintiff, Michael P. Nelder, an inmate at Central Utah Correctional Facility, filed this *pro se* civil rights suit,¹ proceeding *in forma pauperis*.² On March 17, 2014, the Court denied Defendant's motion to dismiss for failure to state a claim and ordered Defendant to file a *Martinez* report.³ Defendant filed the report on June 17, 2014.⁴ On July 16, 2014, Plaintiff filed a *Martinez* report of his own,⁵ which the Court construes as a response to Defendant's *Martinez* report.

As a follow up to the *Martinez* report, the Court now orders Defendant to file a separate summary-judgment motion, with a supporting memorandum. Alternatively, if Defendant wishes to seek relief otherwise contemplated under the procedural rules (e.g., requesting an evidentiary hearing), Defendant must file an appropriate motion.

¹ See 42 U.S.C.S. § 1983 (2014).

² See 28 id. § 1915.

³ (See Docket Entry # 33.)

⁴ (See Docket Entry # 36.)

⁵ (See Docket Entry # 48.)

The parties shall take note that new local rules governing civil cases are now in effect. The Approved Amendments to the Local Rules and Updated Rules are posted on the Court's website. All new requirements are important but the most significant changes are in motion practice and sealed filings. This Court will order the parties to refile summary-judgment motions which do not follow the new standards.⁶

Plaintiff is notified that, if Defendant moves for summary judgment, Plaintiff cannot rest upon the mere allegations in the complaint. Instead, as required by Federal Rule of Civil Procedure 56(e), to survive a motion for summary judgment Plaintiff must allege specific facts, admissible in evidence, showing that there is a genuine issue remaining for trial.

ORDER

Accordingly, **IT IS HEREBY ORDERED** that:

- (1) Within 30 days, Defendant must file a summary-judgment motion.
- (2) Alternatively, if requesting relief otherwise contemplated under the procedural rules, Defendant must do so within 30 days.
- (3) If served with a summary-judgment motion, Plaintiff must submit a response within 30 days of the motion's filing date.

DATED this 15th day of October, 2014.

BY THE COURT:



DEE BENSON
United States District Judge

⁶ See D. Utah Civ. R. 5-2 (Filing Cases and Documents under Court Seal); *id.* 7-1 (Motions and Memoranda); *id.* 26-2 (Standard Protective Order and Stays of Depositions); *id.* 56-1 (Summary Judgment: Motions and Supporting Memoranda).

