

Steven D. Grierson

1 ANTHONY HARRIS #1169848
2 PLAINTIFF/IN PROPRIA PERSONAM
3 POST OFFICE BOX 650 [HDSF]
4 INDIAN SPRINGS, NEVADA 89070
5
6

Electronically Filed
Jul 07 2020 09:59 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 ANTHONY HARRIS,
10 PLAINTIFF;
11 VS.
12 THE STATE OF NEVADA ET. AL.,
13 DEFENDANTS.

CASE No. A-19-805689-C

DEPT. No. VIII

14
15 NOTICE OF APPEAL
16

17 NOTICE IS HEREBY GIVEN THAT ANTHONY HARRIS, PLAINTIFF IN THE
18 ABOVE-ENTITLED MATTER, APPEALS TO THE UNITED STATES COURT OF
19 APPEALS FOR THE CIRCUIT FROM THE FINAL JUDGMENT ENTERED IN THIS
20 ACTION ON THE 29TH DAY OF MAY, 2020 OR APPROXIMATELY SAID
21 DATE.

22
23 DATED THIS 18TH DAY OF JUNE, 2020.

24
25 RECEIVED
JUN 24 2020

26 CLERK OF THE COURT
27 PRISON MAILBOX RULE

ANTHONY HARRIS #1169848
PLAINTIFF/IN PROPRIA PERSONAM
POST OFFICE BOX 650 [HDSF]
INDIAN SPRINGS, NV 89070

CERTIFICATE OF SERVICE BY MAILING


I, ANTHONY HARRIS, hereby certify, pursuant to NRCP 5(b), that on this 18th
day of JUNE, 2020, I mailed a true and correct copy of the foregoing, "NOTICE
OF APPEAL"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

STEVEN D. GRIFFSON, CEO
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

CC:FILE

DATED: this 18th day of JUNE, 2020.


ANTHONY HARRIS # 1160848
PLAINTIFF /In Propria Personam
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE
OF APPEAL
(Title of Document)

filed in District Court Case number A-19-805689-C

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.


Signature

18 JUNE 2020
Date

ANTHONY HARRIS
Print Name

PLAINTIFF
Title

ANTHONY HARRIS # 1169548
HIGH DESERT STATE PRISON
P.O. Box 1650
ANDRUAN SPRINGS, NJ 08910

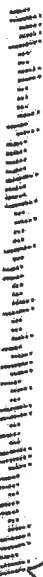
HIGH DESERT STATE PRISON

JUN 21 2020

UNIT 11

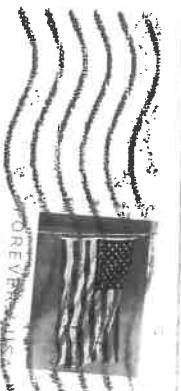
STEVEN D. CARLSON, CEO
CLERK OF THE COURT
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NV 89155-1160

8910136300 0075



LEGAL
AND
CONFIDENTIAL

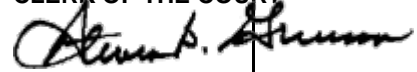
LAS VEGAS NV 890
22 JUN 2020 PM 5 L



SEALED

CONFIDENTIAL

LEGAL
AND



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 ANTHONY HARRIS,

10 Plaintiff(s),

11 vs.

12
13 STATE OF NEVADA; BD. OF PRISON
14 COMMISSIONERS; NV. DEPT. OF
15 CORRECTIONS; JAMES DZURENDA; BRIAN
16 WILLIAMS; ROMEO ARANAS; MICHAEL
17 MINEV; JEREMY BEAN; JULIE MATOUSEK;
18 MR. FALISZEK; MRS. ENNIS; NAPH CARE
19 INC.; BOB FAULKNER; N. PERET; G.
20 WORTHY; G. MARTIN; G. BRYAN,

21 Defendant(s),

Case No: A-19-805689-C

Dept No: VIII

22 **CASE APPEAL STATEMENT**

23 1. Appellant(s): Anthony Harris

24 2. Judge: Trevor Atkin

25 3. Appellant(s): Anthony Harris

26 Counsel:

27 Anthony Harris #1169848
28 P.O. Box 650
Indian Springs, NV 89070

4. Respondent (s): State of Nevada; NV. Dept. of Corrections; Brian Williams

1 Counsel:

2 Aaron D. Ford, Attorney General
3 555 E. Washington Ave., Ste. 3900
4 Las Vegas, NV 89101-1068

5 Respondent (s): Bd. of Prison Commissioners; James Dzurenda; Romeo Aranas; Michael
6 Minev; Jeremy Bean; Julie Matousek; Mr. Faliszek; Mrs. Ennis; Naph Care Inc.; Bob
Faulkner; N. Peret; G. Worthy; G. Martin; G. Bryan

7 Counsel:

8 Unknown

9
10 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
11 Permission Granted: N/A

12 Respondent(s)'s Attorney Licensed in Nevada: Yes
13 Permission Granted: N/A

14 Respondent(s)'s Attorney Licensed in Nevada: N/A
15 Permission Granted: N/A

16 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

17 7. Appellant Represented by Appointed Counsel On Appeal: N/A

18 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, November 19, 2019
19 **Expires 1 year from date filed
Appellant Filed Application to Proceed in Forma Pauperis: N/A
Date Application(s) filed: N/A

20 9. Date Commenced in District Court: November 4, 2019

21 10. Brief Description of the Nature of the Action: Unknown

22 Type of Judgment or Order Being Appealed: Dismissal

23 11. Previous Appeal: No

24 Supreme Court Docket Number(s): N/A

25 12. Child Custody or Visitation: N/A

26 13. Possibility of Settlement: Unknown
27
28

1 Dated This 1 day of July 2020.

2 Steven D. Grierson, Clerk of the Court

3
4 /s/ Heather Ungermann

5 Heather Ungermann, Deputy Clerk

6 200 Lewis Ave

7 PO Box 551601

8 Las Vegas, Nevada 89155-1601

9 (702) 671-0512

10 A-19-805689-C

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
cc: Anthony Harris

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-19-805689-C**

Anthony Harris, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

§
 §
 §
 §
 §

Location: **Department 8**
 Judicial Officer: **Atkin, Trevor**
 Filed on: **11/04/2019**
 Cross-Reference Case **A805689**
 Number:

CASE INFORMATION**Statistical Closures**

04/27/2020 Motion to Dismiss by the Defendant(s)

Case Type: **Other Civil Matters**

Case
Status: **04/27/2020 Dismissed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number	A-19-805689-C
Court	Department 8
Date Assigned	11/04/2019
Judicial Officer	Atkin, Trevor

PARTY INFORMATION*Lead Attorneys***Plaintiff****Harris, Anthony****Pro Se****Defendant****Aranas, Romeo**

Removed: 05/29/2020
Dismissed

Bd of Prison Commissioners

Removed: 05/29/2020
Dismissed

Bean, Jeremy

Removed: 05/29/2020
Dismissed

Bryan, G

Removed: 05/29/2020
Dismissed

Cevagske, Barbara

Removed: 04/27/2020
Dismissed

Dzurenda, James

Removed: 05/29/2020
Dismissed

Ennis, Mrs

Removed: 05/29/2020
Dismissed

Faliszek, Mr

Removed: 05/29/2020
Dismissed

Faulkner, Bob

Removed: 05/29/2020
Dismissed

Ford, Aaron

CASE SUMMARY

CASE NO. A-19-805689-C

Removed: 04/27/2020
Dismissed

Laxalt, Adam

Removed: 04/27/2020
Dismissed

Martin, G

Removed: 05/29/2020
Dismissed

Matousek, Julie

Removed: 05/29/2020
Dismissed

Miney, Michael

Removed: 05/29/2020
Dismissed

Naph Care Inc

Removed: 05/29/2020
Dismissed

Nevada State of

Van Sickle, Wade

Retained

702-352-6666(W)

NV Dept of Corrections

Removed: 04/27/2020
Dismissed

Van Sickle, Wade

Retained

702-352-6666(W)

Peret, N

Removed: 05/29/2020
Dismissed

Sandoval, Brian

Removed: 04/27/2020
Dismissed

Sisolak, Steve

Removed: 04/27/2020
Dismissed

Williams, Brian

Removed: 05/29/2020
Dismissed





Van Sickle, Wade

Retained

702-352-6666(W)

Worthy, G

Removed: 05/29/2020
Dismissed

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
11/04/2019	 Application to Proceed in Forma Pauperis	
11/04/2019	 Inmate Filed - Complaint	
11/19/2019	 Order to Proceed In Forma Pauperis Granted for: Plaintiff Harris, Anthony	
01/30/2020	 Motion to Dismiss Filed By: Defendant NV Dept of Corrections; Defendant Williams, Brian <i>Defendants' Motion to Dismiss</i>	

CASE SUMMARY

CASE NO. A-19-805689-C

01/31/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
01/31/2020	 Certificate of Service Filed by: Defendant NV Dept of Corrections; Defendant Williams, Brian <i>Certificate of Service</i>
02/19/2020	 Response Filed by: Plaintiff Harris, Anthony <i>Plaintiff's Response to Defendant's Motion to Dismiss</i>
02/19/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion of Service</i>
02/19/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion Requesting Order to Compel Attendance by Plaintiff Via Telephonic Court</i>
02/26/2020	 Reply in Support Filed By: Defendant NV Dept of Corrections; Defendant Williams, Brian <i>Defendants' Reply Brief in Support of Their Motion to Dismiss</i>
03/09/2020	 Acceptance of Service Filed By: Defendant Sisolak, Steve; Defendant Sandoval, Brian; Defendant Ford, Aaron; Defendant Laxalt, Adam; Defendant Cevagske, Barbara <i>Notice of Acceptance of Service</i>
03/09/2020	 Motion to Dismiss Filed By: Defendant Sisolak, Steve; Defendant Sandoval, Brian; Defendant Ford, Aaron; Defendant Laxalt, Adam; Defendant Cevagske, Barbara <i>Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cevagske's Motion to Dismiss Complaint with Prejudice</i>
03/09/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/11/2020	 Certificate of Service Filed by: Defendant Sisolak, Steve; Defendant Sandoval, Brian; Defendant Ford, Aaron; Defendant Laxalt, Adam; Defendant Cevagske, Barbara; Defendant NV Dept of Corrections; Defendant Williams, Brian <i>Certificate of Service</i>
03/20/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion to Remove Defendant James Dzuenda</i>
03/24/2020	 Response Filed by: Plaintiff Harris, Anthony <i>Plaintiff's Response to Defendant's Motion to Dismiss</i>
03/24/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion and Order for Appearance by Telephone or Video Conference</i>

CASE SUMMARY

CASE NO. A-19-805689-C

03/24/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion - Defendant's Motion to Dismiss Complaint</i>
03/31/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/08/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/27/2020	 Order for Dismissal With Prejudice <i>Order of Dismissal with Prejudice</i>
05/01/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion of Informal Notice Inquiry</i>
05/01/2020	 Motion for Appointment of Attorney Filed By: Plaintiff Harris, Anthony <i>Plaintiff's Motion for Appointment of Counsel</i>
05/04/2020	 Notice of Entry of Order Filed By: Defendant Nevada State of; Defendant Bd of Prison Commissioners; Defendant Williams, Brian <i>Notice of Entry of Order Granting Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cegavske's Motion to Dismiss Complaint With Prejudice</i>
05/08/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion to File All Declarations of Service /Non Service</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Take Default - The State of Nevada</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Take Default - Board of Prison Commissioners</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Take Default - Romeo Aranas</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Take Default - Michael Minev</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Jeremy Bean</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Julie Matousek</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Mr. Faliszek</i>

CASE SUMMARY

CASE NO. A-19-805689-C

05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Ms. Ennis</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Naphcare Inc.</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Bob Faullner</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - N Peret</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - G Worthy</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - G Martin</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - G Bryan</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - Jane Doe 1</i>
05/21/2020	 Notice of Intent to Take Default <i>Notice of Intent to Enter Default - James Tolman</i>
05/29/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion for Reconsideration of Order to Dismiss Complaint against some Defendants and or Amend/Alter it's Judgments</i>
05/29/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony
05/29/2020	 Order Granting Motion Filed By: Defendant Nevada State of <i>Order Granting Defendant's Motion To Dismiss</i>
06/01/2020	 Notice of Entry of Order Filed By: Defendant Nevada State of; Defendant Williams, Brian <i>Notice of Entry of Order</i>
06/03/2020	 Motion to Dismiss Filed By: Defendant Nevada State of <i>Motion to Dismiss Complaint Pursuant to NRCP 4</i>
06/03/2020	 Opposition to Motion Filed By: Defendant Nevada State of <i>Defendants' Opposition to Reconsideration of Order to Dismiss Complaint against Some Defendats and/or Amend/Alter It's Judgment(s)</i>
06/03/2020	

CASE SUMMARY

CASE NO. A-19-805689-C

	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/05/2020	 Certificate of Service Filed by: Defendant Nevada State of <i>Certificate of Service</i>
06/24/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
06/24/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony
06/29/2020	 Motion for Appointment of Attorney Filed By: Plaintiff Harris, Anthony <i>Motion for Appointment of Counsel and Order for the Appointment of Counsel</i>
06/29/2020	 Motion Filed By: Plaintiff Harris, Anthony <i>Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
06/29/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion and Order for Transport of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference</i>
06/29/2020	 Notice of Motion Filed By: Plaintiff Harris, Anthony <i>Notice of Motion for the Appointment of Counsel and Order for the Appointment of Counsel</i>
06/29/2020	 Response <i>Response to Defendant's Motion to Dismiss</i>
06/29/2020	 Reply in Support Filed By: Plaintiff Harris, Anthony <i>Plaintiff's Reply Brief in Support of Motion for Reconsideration of Order to Dismiss Complaint Against Some Defendants and or Amend Alter it's Judgment</i>
06/29/2020	 Reply Filed by: Plaintiff Harris, Anthony <i>Plaintiff's Reply Brief in Support of Motion for Reconsideration of Order to Dismiss</i>
06/29/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Harris, Anthony <i>Plaintiff's Response/Opposition to Defendant's Motion to Dismiss</i>
06/30/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/30/2020	 Notice of Appeal Filed By: Plaintiff Harris, Anthony

CASE SUMMARY

CASE NO. A-19-805689-C

Notice of Appeal

06/30/2020



Clerk's Notice of Hearing
Notice of Hearing

06/30/2020



Reply
Filed by: Defendant Nevada State of
Reply Brief in Support of Motion to Dismiss Complaint Pursuant to NRCP 4

07/01/2020



Case Appeal Statement
Filed By: Plaintiff Harris, Anthony
Case Appeal Statement

DISPOSITIONS

04/27/2020

Order of Dismissal With Prejudice (Judicial Officer: Atkin, Trevor)
Debtors: Anthony Harris (Plaintiff)
Creditors: Steve Sisolak (Defendant), Brian Sandoval (Defendant), Aaron Ford (Defendant), Barbara Cevagske (Defendant), NV Dept of Corrections (Defendant)
Judgment: 04/27/2020, Docketed: 04/28/2020

05/29/2020

Order of Dismissal (Judicial Officer: Atkin, Trevor)
Debtors: Anthony Harris (Plaintiff)
Creditors: Nevada State of (Defendant), Bd of Prison Commissioners (Defendant), James Dzurenda (Defendant), Brian Williams (Defendant), Romeo Aranas (Defendant), Michael Minev (Defendant), Jeremy Bean (Defendant), Julie Matousek (Defendant), Mr Faliszek (Defendant), Mrs Ennis (Defendant), Naph Care Inc (Defendant), Bob Faulkner (Defendant), N Peret (Defendant), G Worthy (Defendant), G Martin (Defendant), G Bryan (Defendant)
Judgment: 05/29/2020, Docketed: 06/02/2020

HEARINGS

03/03/2020



Motion to Dismiss (9:00 AM) (Judicial Officer: Atkin, Trevor)
Defendants' Motion to Dismiss
Granted With Prejudice;
Journal Entry Details:
Court noted Mr. Harris not present. Mr. Van Sickel stated Mr. Harris is incarcerated and he is not aware of any arrangement to appear by phone. Arguments by Mr. Van Sickel in support of his motion. Court stated it had reviewed the pleadings and ORDERED, Defendants' Motion to Dismiss GRANTED WITH PREJUDICE as to both of Mr. Harris' identified clients. Mr. Harris to prepare the order. CLERK'S NOTE: Minute Order prepared by Nicole McDevitt via listening to JAVS recording. /nm 3/20/2020 ;

04/09/2020



Motion to Dismiss (9:00 AM) (Judicial Officer: Atkin, Trevor)
Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cevagske's Motion to Dismiss Complaint with Prejudice
Granted; Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cevagske's Motion to Dismiss Complaint with Prejudice
Journal Entry Details:
Motion having been duly filed and served, no opposition having been filed, pursuant to EDCR 2.20 and for good cause shown, COURT FINDS based the legal reasoning set for in the motion and ORDERED, Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cevagske's Motion to Dismiss Complaint with Prejudice is GRANTED. Defense counsel to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: The above minute order has been electronically distributed.;

04/28/2020

CANCELED Motion to Dismiss (9:00 AM) (Judicial Officer: Atkin, Trevor)
Vacated - per Law Clerk
Plaintiff's Motion to Remove Defendant James Dzuenda


04/28/2020

CANCELED Motion to Dismiss (9:00 AM) (Judicial Officer: Atkin, Trevor)

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-805689-C

	<i>Vacated - per Law Clerk</i> <i>Defendant's Motion to Dismiss Complaint</i>
05/21/2020	Motion for Appointment of Attorney (3:00 AM) (Judicial Officer: Atkin, Trevor) Events: 05/01/2020 Motion for Appointment of Attorney <i>Plaintiff's Motion for Appointment of Attorney</i>
05/21/2020	Motion (3:00 AM) (Judicial Officer: Atkin, Trevor) Events: 05/08/2020 Motion <i>Motion to File All Declarations of Service /Non Service</i>
05/21/2020	All Pending Motions (3:00 AM) (Judicial Officer: Atkin, Trevor)
06/25/2020	 Minute Order (3:00 AM) (Judicial Officer: Atkin, Trevor) <i>MINUTE ORDER RE: DEPT. 8, TUESDAY JUNE 30, 2020 PRE-TRIAL CONFERENCES AT 8:30 AM AND LAW AND MOTION CALENDAR AT 9:00 AM</i> Minute Order - No Hearing Held; Journal Entry Details: <i>MINUTE ORDER RE: DEPT. 8, TUESDAY JUNE 30, 2020 PRE-TRIAL CONFERENCES AT 8:30 AM AND LAW AND MOTION CALENDAR AT 9:00 AM Department 8 Request to Appear Telephonically Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 239 388 914 (NOTE: The meeting number will be different for each day s court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;</i>
06/30/2020	Motion to Reconsider (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Plaintiff's Motion for Reconsideration of Order to Dismiss Complaint against some Defendants and or Amend/Alter it's Judgments</i> Denied; Plaintiff's Motion for Reconsideration of Order to Dismiss Complaint against some Defendants and or Amend/Alter it's Judgments
07/07/2020	Motion to Dismiss (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Defendant's Motion to Dismiss Complaint Pursuant to NRCP 4</i>
08/04/2020	Motion for Appointment (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Motion for Appointment of Counsel and Order for the Appointment of Counsel</i>
08/04/2020	Motion (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Motion and Notice of Motion and Order for Transport of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference</i>
08/04/2020	Motion for Appointment of Attorney (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Motion and Notice of Motion for the Appointment of Counsel and Order for the Appointment of Counsel</i>

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No.

(Assigned by Clerk's Office)

A-19-805689-C
VIII**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone)

Anthony Harris # 1169848
PO Box 650
Indian Springs NV 89070

Attorney (name/address/phone)

Defendant(s) (name/address/phone)

State of Nevada et al

Attorney (name/address/phone)

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

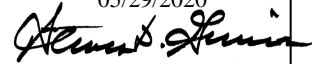
Business Court filings should be filed using the Business Court civil coversheet.

11/19/19
Date

PREPARED BY CLERK

Signature of initiating party or representative

See other side for family-related case filings.


CLERK OF THE COURT

ORDR

AARON D. FORD

Attorney General

Wade J. VanSickle (Bar No. 13604)

Deputy Attorney General

State of Nevada

Office of the Attorney General

555 E. Washington Avenue, Suite 3900

Las Vegas, NV 89101

(702) 486-3216 (phone)

(702) 486-3773 (fax)

wvansickle@ag.nv.gov

*Attorneys for Defendants Brian Williams
and Nevada Department of Corrections*

DISTRICT COURT

CLARK COUNTY, NEVADA

Anthony Harris,

Plaintiff,

vs.

The State of Nevada, *et al.*,

Defendants.

Case No. A-19-805689-C

Dept. No. VIII

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

This matter came on for hearing on Defendants Motion to Dismiss, on March 3, 2020, at 9:00am. Present at the hearing was Defendants, Brian Williams, Sr. (Defendant Williams), and the Nevada Department of Corrections (NDOC) (collectively "Defendants"), by and through counsel, Aaron D. Ford, Nevada Attorney General, and Wade J. VanSickle, Deputy Attorney General, and Plaintiff Anthony Harris (Harris) having made no appearance before the Court. Having reviewed the papers and pleadings on file herein, having heard oral arguments of the Parties, the Court hereby rules as follows:

I. FINDINGS OF FACT

1. On November 4, 2019, Harris filed his Complaint which names twenty-four (24) defendants and alleges an Eighth Amendment deliberate indifference to a serious medical condition claim. Complaint at IA, 12, 16;

2. Harris' Eighth Amendment deliberate indifference claim is premised upon the allegation that Harris was not provided "proper medical treatment for [his] seriously debilitating and potentially life threatening medical problem" which resulted in "extreme chest pains" and "could have caused him to: (1) have a stroke; (2) have a heart attack; or (3) dye (sic)." *Id.* at 16-17;
3. The Complaint does not asserts any allegations against the NDOC. Complaint at IA, 12, 16;
4. The Complaint does not assert any allegations against Defendant Williams. *Id.*;
5. On January 30, 2020, Defendants filed a Motion to Dismiss Harris' claim against the NDOC with prejudice contending it is an arm of the State of Nevada and is not a person subject to suit for purposes of 42 U.S.C. §1983;
6. The Motion to Dismiss also sought to dismiss the claims against Defendant Williams with prejudice because Defendants assert (1) the Complaint failed to allege facts sufficient to establish "personal participation" of Defendant Williams in an alleged constitutional violation required to maintain a claim under 42 U.S.C. §1983 and (2) Warden Williams was entitled to qualified immunity;
7. The Motion to Dismiss also sought to dismiss Harris' claims for monetary damages brought against all Defendants in their personal capacity with prejudice asserting the claim fails as a matter of law;
8. On February 19, 2020, Harris filed a Response to Defendant's Motion to Dismiss generally contending (1) NDOC is the employer of the Defendants and therefore liable for their constitutional violations and (2) Defendant Williams is exposed to liability and not entitled to qualified immunity because he was placed on notice of Harris' constitutional deprivation through the NDOC administrative grievance process but failed to respond;
9. On February 26, 2020, Defendants filed their Reply Brief In Support of Their Motion To Dismiss wherein they again outlined NDOC is not a proper party to the action and the Complaint failed to assert any allegations against Defendant

Williams or any allegations that Defendant Williams was placed on notice of Harris' claims through the NDOC administrative grievance process;

II. CONCLUSIONS OF LAW

1. NEV. R. CIV. P. 12(b)(5)

- a. In considering a motion pursuant to NRCP 12(b)(5), the court “must construe the pleading liberally and draw every fair intendment in favor of the [non-moving party].” *Squires v. Sierra Nev. Educational Found.*, 107 Nev. 902, 905, 823 P.2d 256, 257 (1991) (quoting *Merluzzi v. Larson*, 96 Nev. 409, 411, 610 P.2d 739, 741 (1980));
- b. All factual allegations of the complaint must be accepted as true. *Capital Mortgage Holding v. Hahn*, 101 Nev. 314, 315, 705 P.2d 126 (1985);
- c. A complaint will not be dismissed for failure to state a claim “unless it appears beyond a doubt that the plaintiff could prove no set of facts which, if accepted by the trier of fact, would entitle him [or her] to relief.” *Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d 110, 112 (1985);
- d. Leave to amend the complaint should not be granted if amendment would be futile, *Halcrow, Inc. v. Eighth Judicial Dist. Court*, 129 Nev. 294, 398 (2013), such that the claim would not survive a motion to dismiss under NRCP 12(b)(5). *Nutton v. Sunset Station, Inc.*, 131 Nev., Adv. Op. 34, 357 P.3d 966, 973 (Ct. App. 2015);

2. 42 U.S.C. § 1983

- a. Title 42 U.S.C. § 1983 provides a cause of action for the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws” of the United States. To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of State law. *Long v. Cty. of Los Angeles*,

///

442 F.3d 1178, 1185 (9th Cir. 2006) *citing West v. Atkins*, 487 U.S. 42, 48, 108 S.Ct. 2250, 101 L.Ed.2d 40 (1988);

b. Both federal and state courts have jurisdiction to hear claims brought under § 1983. *Berry v. Feil*, 131 Nev. 339, 343, 357 P.3d 344, 346 (Nev. App. 2015);

3. Claims Against NDOC

a. NDOC is an arm of the State of Nevada and is not a “person” subject to suit for the purposes of 42 U.S.C. §1983. *N. Nev. Ass’n of Injured Workers v. Nev. State Indus. Ins. Sys.*, 107 Nev. 108, 114-15, 807 P.2d 728, 732 (1991);

b. Harris’ claims against NDOC fails as a matter of law because it is not a “person” subject to suit for purposes of 42 U.S.C. § 1983, and no set of facts, if accepted by the trier of fact, would entitle him to relief;

4. Claims Against Defendant Williams

a. The Complaint fails to assert facts that, if accepted as true by the trier of fact, establish Defendant Williams’ “personal participation” in any alleged constitutional violation, and therefore, no colorable claim has been alleged against Defendant Williams;

b. The Complaint fails to assert facts that, if accepted as true by the trier of fact, establish Defendant Williams was on notice through the NDOC’s administrative grievance process that Harris’ constitutional rights were allegedly being deprived;

c. Even if Defendant Williams had responded to a grievance submitted by Harris, the response in and of itself is not sufficient to expose him to liability. *West v. Cox*, No. 215CV00665GMNVCF, 2017 WL 3427973, at *3 (D. Nev. Aug. 8, 2017); *May v. Williams*, No. 2:10-CV-576-GMN-LRL, 2012 WL 1155390, at *3 (D. Nev. Apr. 4, 2012);

///

///

///

- 1 d. “A supervisor may be liable if there exists either (1) his or her personal
2 involvement in the constitutional deprivation, or (2) a sufficient causal
3 connection between the supervisor's wrongful conduct and the constitutional
4 violation.” *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989);
- 5 e. “The requisite causal connection can be established...by setting in a motion a
6 series of acts by others or by knowingly refusing to terminate a series of acts
7 by others, which [the supervisor] knew or reasonably should have known
8 would cause others to inflict a constitutional injury.” *Starr v. Baca*, 652 F.3d
9 1202 (9th Cir. 2011);
- 10 f. The Complaint fails to set forth a colorable claim against Defendant Williams
11 based upon any supervisory role he may have maintained because it does not
12 allege facts that constitute a causal connection between some conduct of
13 Defendant Williams and a constitutional violation;

14 **5. Qualified Immunity**

- 15 a. It is a long-standing principle that governmental officials are shielded from
16 civil liability under the doctrine of qualified immunity. *Harlow v. Fitzgerald*,
17 457 U.S. 800, 818 (1992);
- 18 b. When conducting the qualified immunity analysis, courts “ask (1) whether the
19 official violated a constitutional right and (2) whether the constitutional right
20 was clearly established.” *C.B. v. City of Sonora*, 760 F.3d 1005, 1022 (9th Cir.
21 2015) (citing *Pearson v. Callahan*, 555 U.S. 223, 232, 236 (2009));
- 22 c. The second inquiry, whether the constitutional right in question was clearly
23 established, is an objective inquiry that turns on whether a reasonable official
24 in the position of the defendant knew or should have known at the time of the
25 events in question that his or her conduct was constitutionally infirm.
26 *Anderson v. Creighton*, 483 U.S. 635, 639-40 (1987); *Lacey v. Maricopa Cty.*,
27 693 F.3d 896, 915 (9th Cir. 2012);

28 ///

- 1 d. Only where a governmental official's belief as to the constitutionality of his or
2 her conduct is "plainly incompetent" is qualified immunity unavailable.
3 *Stanton v. Sims*, 134 S. Ct. 3, 5 (2013) (per curiam);
- 4 e. Governmental officials are entitled to high deference when making this
5 determination, *Anderson*, 483 U.S. at 640, requiring the Court to assess
6 whether qualified immunity is appropriate "in light of the specific context of
7 the case." *Tarabochia v. Adkins*, 766 F.3d 1115, 1121 (9th Cir. 2014) (quoting
8 *Robinson v. York*, 566 F.3d 817, 821 (9th Cir. 2009));
- 9 f. In determining "whether a [constitutional] right was clearly established,"
10 this Court is to survey the law within this Circuit and under Supreme Court
11 precedent "at the time of the alleged act." *Perez v. United States*, 103 F. Supp.
12 3d 1180, 1208 (S.D. Cal. 2015) (quoting *Cnty. House, Inc. v. City of Boise*, 623
13 F.3d 945, 967 (2010);
- 14 g. Only in situations where there is no precedent regarding the qualified
15 immunity question at issue should this Court look to "other circuits and
16 district courts to ascertain whether the law is clearly established." *Cnty.*
17 *House*, 623 F.3d at 967 (citing *Osolinski v. Kane*, 92 F.3d 934, 936 (9th Cir.
18 1996));
- 19 h. Whether governmental employees are entitled to qualified immunity is a
20 question of law subject to *de novo* review before this Court. *Devereaux v. Perez*,
21 218 F.3d 1045, 1051 (9th Cir. 2000).
- 22 i. Defendant Williams is entitled to qualified immunity because the Complaint
23 does not assert facts, that if accepted as true by the trier of fact, would
24 establish Defendant Williams violated Harris' constitutional rights;
- 25 j. Defendant Williams is entitled to qualified immunity because the Complaint
26 fails to assert facts, if accepted as true by the trier of fact, would establish
27 Defendant Williams should have been on clear notice that his alleged action
28

///

1 or inaction as a member of the Nevada Board of Prison Commissioners was
2 constitutionally infirm;

3 **6. Claims for Monetary Damages Against Defendants in Their Official**
4 **Capacity**

5 a. “[A] state official may not be sued in an official capacity for damages under §
6 1983....”) *Kille v. Calderin*, 440 P.3d 655 (Nev. 2019); *see also Will v. Mich.*
7 *Dep’t of State Police*, 491 U.S. 58, 66 (1989).

8 b. Harris’ claim for monetary damages against Defendants in their official
9 capacity fails as a matter of law.

10 **III. ORDER**

11 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that
12 Defendants’ Motion to Dismiss with prejudice is **GRANTED**.

13 IT IS SO ORDERED.

Dated this 29th day of May, 2020

14 DATED this _____ day of _____, 2020.

15
16 
HON. TREVOR ATKIN

65A 872 ED12 A7EC
Trevor Atkin

DISTRICT COURT
CLARK COUNTY, NEVADA

Anthony Harris, Plaintiff(s)

CASE NO: A-19-805689-C

vs.

DEPT. NO. Department 8

Nevada State of, Defendant(s)

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Granting was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Envelope ID: 6113495

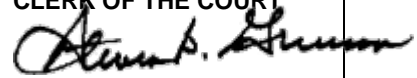
Service Date: 5/29/2020

Diane Resch

dresch@ag.nv.gov

Wade VanSickle

wvansickle@ag.nv.gov



NEOJ
AARON D. FORD
Attorney General
Wade J. VanSickle (Bar No. 13604)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101
(702) 486-3216 (phone)
(702) 486-3773 (fax)
wvansickle@ag.nv.gov

*Attorneys for Defendants Brian Williams
and Nevada Department of Corrections*

DISTRICT COURT
CLARK COUNTY, NEVADA

Anthony Harris,
Plaintiff,

vs.

The State of Nevada, *et al.*,
Defendants.

Case No. A-19-805689-C
Dept. No. VIII

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES

Please take notice that an **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**, was entered in the above-entitled matter on the 29th day of May, a copy of which is attached hereto.

DATED this 1st day of June, 2020.

AARON D. FORD
Attorney General

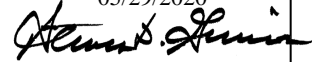
By: /s/ Wade J. VanSickle
Wade J. VanSickle (Bar No. 13604)
Deputy Attorney General

*Attorneys Defendants Brian Williams
And Nevada Department of Corrections*

- 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

Anthony Harris #1169848
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070
HDSP_LawLibrary@doc.nv.gov
Plaintiff, Pro Se

/s/ Diane Resch
Diane Resch, an employee of the
Office of the Nevada Attorney General


CLERK OF THE COURT

ORDR

AARON D. FORD
Attorney General
Wade J. VanSickle (Bar No. 13604)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101
(702) 486-3216 (phone)
(702) 486-3773 (fax)
wvansickle@ag.nv.gov

*Attorneys for Defendants Brian Williams
and Nevada Department of Corrections*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Anthony Harris,
Plaintiff,

vs.

The State of Nevada, *et al.*,
Defendants.

Case No. A-19-805689-C
Dept. No. VIII

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

This matter came on for hearing on Defendants Motion to Dismiss, on March 3, 2020, at 9:00am. Present at the hearing was Defendants, Brian Williams, Sr. (Defendant Williams), and the Nevada Department of Corrections (NDOC) (collectively "Defendants"), by and through counsel, Aaron D. Ford, Nevada Attorney General, and Wade J. VanSickle, Deputy Attorney General, and Plaintiff Anthony Harris (Harris) having made no appearance before the Court. Having reviewed the papers and pleadings on file herein, having heard oral arguments of the Parties, the Court hereby rules as follows:

I. FINDINGS OF FACT

1. On November 4, 2019, Harris filed his Complaint which names twenty-four (24) defendants and alleges an Eighth Amendment deliberate indifference to a serious medical condition claim. Complaint at IA, 12, 16;

2. Harris' Eighth Amendment deliberate indifference claim is premised upon the allegation that Harris was not provided "proper medical treatment for [his] seriously debilitating and potentially life threatening medical problem" which resulted in "extreme chest pains" and "could have caused him to: (1) have a stroke; (2) have a heart attack; or (3) dye (sic)." *Id.* at 16-17;
3. The Complaint does not asserts any allegations against the NDOC. Complaint at IA, 12, 16;
4. The Complaint does not assert any allegations against Defendant Williams. *Id.*;
5. On January 30, 2020, Defendants filed a Motion to Dismiss Harris' claim against the NDOC with prejudice contending it is an arm of the State of Nevada and is not a person subject to suit for purposes of 42 U.S.C. §1983;
6. The Motion to Dismiss also sought to dismiss the claims against Defendant Williams with prejudice because Defendants assert (1) the Complaint failed to allege facts sufficient to establish "personal participation" of Defendant Williams in an alleged constitutional violation required to maintain a claim under 42 U.S.C. §1983 and (2) Warden Williams was entitled to qualified immunity;
7. The Motion to Dismiss also sought to dismiss Harris' claims for monetary damages brought against all Defendants in their personal capacity with prejudice asserting the claim fails as a matter of law;
8. On February 19, 2020, Harris filed a Response to Defendant's Motion to Dismiss generally contending (1) NDOC is the employer of the Defendants and therefore liable for their constitutional violations and (2) Defendant Williams is exposed to liability and not entitled to qualified immunity because he was placed on notice of Harris' constitutional deprivation through the NDOC administrative grievance process but failed to respond;
9. On February 26, 2020, Defendants filed their Reply Brief In Support of Their Motion To Dismiss wherein they again outlined NDOC is not a proper party to the action and the Complaint failed to assert any allegations against Defendant

Williams or any allegations that Defendant Williams was placed on notice of Harris' claims through the NDOC administrative grievance process;

II. CONCLUSIONS OF LAW

1. NEV. R. CIV. P. 12(b)(5)

- a. In considering a motion pursuant to NRCP 12(b)(5), the court “must construe the pleading liberally and draw every fair intendment in favor of the [non-moving party].” *Squires v. Sierra Nev. Educational Found.*, 107 Nev. 902, 905, 823 P.2d 256, 257 (1991) (quoting *Merluzzi v. Larson*, 96 Nev. 409, 411, 610 P.2d 739, 741 (1980));
- b. All factual allegations of the complaint must be accepted as true. *Capital Mortgage Holding v. Hahn*, 101 Nev. 314, 315, 705 P.2d 126 (1985);
- c. A complaint will not be dismissed for failure to state a claim “unless it appears beyond a doubt that the plaintiff could prove no set of facts which, if accepted by the trier of fact, would entitle him [or her] to relief.” *Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d 110, 112 (1985);
- d. Leave to amend the complaint should not be granted if amendment would be futile, *Halcrow, Inc. v. Eighth Judicial Dist. Court*, 129 Nev. 294, 398 (2013), such that the claim would not survive a motion to dismiss under NRCP 12(b)(5). *Nutton v. Sunset Station, Inc.*, 131 Nev., Adv. Op. 34, 357 P.3d 966, 973 (Ct. App. 2015);

2. 42 U.S.C. § 1983

- a. Title 42 U.S.C. § 1983 provides a cause of action for the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws” of the United States. To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of State law. *Long v. Cty. of Los Angeles*,

///

442 F.3d 1178, 1185 (9th Cir. 2006) *citing West v. Atkins*, 487 U.S. 42, 48, 108 S.Ct. 2250, 101 L.Ed.2d 40 (1988);

b. Both federal and state courts have jurisdiction to hear claims brought under § 1983. *Berry v. Feil*, 131 Nev. 339, 343, 357 P.3d 344, 346 (Nev. App. 2015);

3. Claims Against NDOC

a. NDOC is an arm of the State of Nevada and is not a “person” subject to suit for the purposes of 42 U.S.C. §1983. *N. Nev. Ass’n of Injured Workers v. Nev. State Indus. Ins. Sys.*, 107 Nev. 108, 114-15, 807 P.2d 728, 732 (1991);

b. Harris’ claims against NDOC fails as a matter of law because it is not a “person” subject to suit for purposes of 42 U.S.C. § 1983, and no set of facts, if accepted by the trier of fact, would entitled him to relief;

4. Claims Against Defendant Williams

a. The Complaint fails to assert facts that, if accepted as true by the trier of fact, establish Defendant Williams’ “personal participation” in any alleged constitutional violation, and therefore, no colorable claim has been alleged against Defendant Williams;

b. The Complaint fails to assert facts that, if accepted as true by the trier of fact, establish Defendant Williams was on notice through the NDOC’s administrative grievance process that Harris’ constitutional rights were allegedly being deprived;

c. Even if Defendant Williams had responded to a grievance submitted by Harris, the response in and of itself is not sufficient to expose him to liability. *West v. Cox*, No. 215CV00665GMNVCF, 2017 WL 3427973, at *3 (D. Nev. Aug. 8, 2017); *May v. Williams*, No. 2:10-CV-576-GMN-LRL, 2012 WL 1155390, at *3 (D. Nev. Apr. 4, 2012);

///

///

///

- 1 d. “A supervisor may be liable if there exists either (1) his or her personal
2 involvement in the constitutional deprivation, or (2) a sufficient causal
3 connection between the supervisor's wrongful conduct and the constitutional
4 violation.” *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989);
- 5 e. “The requisite causal connection can be established...by setting in a motion a
6 series of acts by others or by knowingly refusing to terminate a series of acts
7 by others, which [the supervisor] knew or reasonably should have known
8 would cause others to inflict a constitutional injury.” *Starr v. Baca*, 652 F.3d
9 1202 (9th Cir. 2011);
- 10 f. The Complaint fails to set forth a colorable claim against Defendant Williams
11 based upon any supervisory role he may have maintained because it does not
12 allege facts that constitute a causal connection between some conduct of
13 Defendant Williams and a constitutional violation;

14 **5. Qualified Immunity**

- 15 a. It is a long-standing principle that governmental officials are shielded from
16 civil liability under the doctrine of qualified immunity. *Harlow v. Fitzgerald*,
17 457 U.S. 800, 818 (1992);
- 18 b. When conducting the qualified immunity analysis, courts “ask (1) whether the
19 official violated a constitutional right and (2) whether the constitutional right
20 was clearly established.” *C.B. v. City of Sonora*, 760 F.3d 1005, 1022 (9th Cir.
21 2015) (citing *Pearson v. Callahan*, 555 U.S. 223, 232, 236 (2009));
- 22 c. The second inquiry, whether the constitutional right in question was clearly
23 established, is an objective inquiry that turns on whether a reasonable official
24 in the position of the defendant knew or should have known at the time of the
25 events in question that his or her conduct was constitutionally infirm.
26 *Anderson v. Creighton*, 483 U.S. 635, 639-40 (1987); *Lacey v. Maricopa Cty.*,
27 693 F.3d 896, 915 (9th Cir. 2012);

28 ///

- 1 d. Only where a governmental official's belief as to the constitutionality of his or
2 her conduct is "plainly incompetent" is qualified immunity unavailable.
3 *Stanton v. Sims*, 134 S. Ct. 3, 5 (2013) (per curiam);
- 4 e. Governmental officials are entitled to high deference when making this
5 determination, *Anderson*, 483 U.S. at 640, requiring the Court to assess
6 whether qualified immunity is appropriate "in light of the specific context of
7 the case." *Tarabochia v. Adkins*, 766 F.3d 1115, 1121 (9th Cir. 2014) (quoting
8 *Robinson v. York*, 566 F.3d 817, 821 (9th Cir. 2009));
- 9 f. In determining "whether a [constitutional] right was clearly established,"
10 this Court is to survey the law within this Circuit and under Supreme Court
11 precedent "at the time of the alleged act." *Perez v. United States*, 103 F. Supp.
12 3d 1180, 1208 (S.D. Cal. 2015) (quoting *Cnty. House, Inc. v. City of Boise*, 623
13 F.3d 945, 967 (2010);
- 14 g. Only in situations where there is no precedent regarding the qualified
15 immunity question at issue should this Court look to "other circuits and
16 district courts to ascertain whether the law is clearly established." *Cnty.*
17 *House*, 623 F.3d at 967 (citing *Osolinski v. Kane*, 92 F.3d 934, 936 (9th Cir.
18 1996));
- 19 h. Whether governmental employees are entitled to qualified immunity is a
20 question of law subject to *de novo* review before this Court. *Devereaux v. Perez*,
21 218 F.3d 1045, 1051 (9th Cir. 2000).
- 22 i. Defendant Williams is entitled to qualified immunity because the Complaint
23 does not assert facts, that if accepted as true by the trier of fact, would
24 establish Defendant Williams violated Harris' constitutional rights;
- 25 j. Defendant Williams is entitled to qualified immunity because the Complaint
26 fails to assert facts, if accepted as true by the trier of fact, would establish
27 Defendant Williams should have been on clear notice that his alleged action

28 ///

1 or inaction as a member of the Nevada Board of Prison Commissioners was
2 constitutionally infirm;

3 **6. Claims for Monetary Damages Against Defendants in Their Official**
4 **Capacity**

5 a. “[A] state official may not be sued in an official capacity for damages under §
6 1983....”) *Kille v. Calderin*, 440 P.3d 655 (Nev. 2019); *see also Will v. Mich.*
7 *Dep’t of State Police*, 491 U.S. 58, 66 (1989).

8 b. Harris’ claim for monetary damages against Defendants in their official
9 capacity fails as a matter of law.

10 **III. ORDER**

11 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that
12 Defendants’ Motion to Dismiss with prejudice is **GRANTED**.

13 IT IS SO ORDERED.

Dated this 29th day of May, 2020

14 DATED this _____ day of _____, 2020.

15
16 
HON. TREVOR ATKIN

65A 872 ED12 A7EC
Trevor Atkin

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 03, 2020

A-19-805689-C Anthony Harris, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

March 03, 2020 9:00 AM Motion to Dismiss

HEARD BY: Atkin, Trevor **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Van Sickle, Wade Attorney

JOURNAL ENTRIES

- Court noted Mr. Harris not present. Mr. Van Sickle stated Mr. Harris is incarcerated and he is not aware of any arrangement to appear by phone. Arguments by Mr. Van Sickle in support of his motion. Court stated it had reviewed the pleadings and ORDERED, Defendants' Motion to Dismiss GRANTED WITH PREJUDICE as to both of Mr. Harris' identified clients. Mr. Harris to prepare the order.

CLERK'S NOTE: Minute Order prepared by Nicole McDevitt via listening to JAVS recording. /nm
3/20/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 09, 2020

A-19-805689-C Anthony Harris, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

April 09, 2020	9:00 AM	Motion to Dismiss	Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cegavske's Motion to Dismiss Complaint with Prejudice
-----------------------	----------------	--------------------------	---

HEARD BY: Atkin, Trevor

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Motion having been duly filed and served, no opposition having been filed, pursuant to EDCR 2.20 and for good cause shown, COURT FINDS based the legal reasoning set for in the motion and ORDERED, Defendants Steve Sisolak, Aaron Ford, Adam Laxalt, Brian Sandoval, and Barbara Cegavske's Motion to Dismiss Complaint with Prejudice is GRANTED. Defense counsel to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: The above minute order has been electronically distributed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 25, 2020

A-19-805689-C	Anthony Harris, Plaintiff(s) vs. Nevada State of, Defendant(s)
---------------	--

June 25, 2020	3:00 AM	Minute Order
----------------------	----------------	---------------------

HEARD BY: Atkin, Trevor	COURTROOM: Chambers
--------------------------------	----------------------------

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- MINUTE ORDER RE: DEPT. 8, TUESDAY JUNE 30, 2020 PRE-TRIAL CONFERENCES AT 8:30 AM AND LAW AND MOTION CALENDAR AT 9:00 AM

Department 8 Request to Appear Telephonically

Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants.

To use BlueJeans, please call in prior to the hearing at 1-888-748-9073.

To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #.

Your Meeting ID: 239 388 914 (NOTE: The meeting number will be different for each day's court session.)

For your hearing, PLEASE observe the following protocol:

PRINT DATE: 07/01/2020

Page 3 of 4

Minutes Date: March 03, 2020

Place your telephone on mute while waiting for your matter/case to be called.
Do not place the conference on hold as it may play wait/hold music to others.
Identify yourself before speaking each time as a record is being made.
Please be mindful of sounds of rustling of papers or coughing.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION TO
DISMISS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

ANTHONY HARRIS,

Plaintiff(s),

vs.

STATE OF NEVADA; BD. OF PRISON
COMMISSIONERS; NV. DEPT. OF
CORRECTIONS; JAMES DZURENDA;
BRIAN WILLIAMS; ROMEO ARANAS;
MICHAEL MINEV; JEREMY BEAN; JULIE
MATOUSEK; MR. FALISZEK; MRS. ENNIS;
NAPH CARE INC.; BOB FAULKNER; N.
PERET; G. WORTHY; G. MARTIN; G.
BRYAN,

Defendant(s),

Case No: A-19-805689-C

Dept No: VIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 1 day of July 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk