

No. 81513

IN THE SUPREME COURT OF THE STATE OF NEVADA

SONJIA MACK,

Appellant,

v.

BRIAN WILLIAMS et al.,

Respondents.

Certified Questions from the U.S. District Court for the District of Nevada,
Case No. 2:18-cv-00799-APG-VCF

RESPONDENTS' APPENDIX – VOLUME I

AARON D. FORD
Attorney General
Nevada Bar No. 7704
Kiel B. Ireland
Deputy Attorney General
Nevada Bar No. 15368C
Office of the Nevada Attorney General
100 N. Carson St.
Carson City, NV 89701
(775) 684-1234
kireland@ag.nv.gov

Attorneys for Respondents

Electronically Filed
Nov 22 2021 07:05 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

RESPONDENTS' APPENDIX

DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE Nos.
12/20/18	[Doc 19] Defendant's Motion for Summary Judgment	I	0001-0017
12/20/18	[Doc 19-1] Exhibit 1 to Defendant's Motion for Summary Judgment – Consent to Search	I	0018-0019
12/20/18	[Doc 19-3] Exhibit 3 to Defendant's Motion for Summary Judgment – Defendant Emling's Responses to Plaintiff's First Set of Interrogatories	I	0020-0035
12/20/18	[Doc 19-4] Exhibit 4 to Defendant's Motion for Summary Judgment – Defendant Laurian's Responses to Plaintiff's First Set of Interrogatories	I	0036-0049
12/20/18	[Doc 19-1] Exhibit 1 to Defendant's Motion for Summary Judgment – Search and Seizure Warrant	I	0050-0051

DATED this 22nd day of November, 2021.

AARON FORD
Attorney General

By: /s/ Kiel B. Ireland
Kiel B. Ireland (Bar No. 15368C)
Deputy Attorney General
Office of the Nevada Attorney General
100 North Carson Street
Carson City, NV 89701-4717
(775) 684-1234
kireland@ag.nv.gov
Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing in accordance with this Court's electronic filing system and consistent with NEFCR 9 on November 22, 2021.

Participants in the case who are registered with this Court's electronic filing system will receive notice that the document has been filed and is available on the court's electronic filing system.

I further certify that any of the participants in the case that are not registered as electronic users will be mailed the foregoing document by First-Class Mail, postage prepaid.

Travis N. Barrick, Esq.
GALLIAN WELKER &
BECKSTROM, LC
Counsel for Appellant

/s/ R. Carreau
An employee of the Office of the Attorney General

ADAM PAUL LAXALT
Attorney General
HENRY H. KIM (Bar No. 14390)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101
(702) 486-3095 (telephone)
(702) 486-3773 (facsimile)
hkim@ag.nv.gov

*Attorneys for Defendants
James Dzurenda, Arthur Emling,
Mayra Laurian, and Brian Williams*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SONJIA MACK, an individual,

Plaintiff,

vs.

BRIAN WILLIAMS, Sr., in his individual
capacity; JAMES DZURENDA, in his
individual capacity; ARTHUR EMLING,
Jr., in his individual capacity; MAYRA
LAURIAN, in her individual capacity; and
JOHN DOES 1 and 2, in their individual
capacities,

Defendants.

Case No. 2:18-cv-00799-APG-VCF

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Defendants, BRIAN WILLIAMS, JAMES DZURENDA, ARTHUR EMLING, and
MAYRA LAURIAN, by and through counsel, Adam Paul Laxalt, Nevada Attorney General,
and Henry Kim, Deputy Attorney General, and hereby move for summary disposition of
this matter in their favor. This motion is made and based on Rule 56 of the Federal Rules
of Civil Procedure ("FRCP"), the following memorandum of points and authorities, all
pleadings and papers on file, the attached exhibits, and any other evidence the Court deems
appropriate to consider.

...

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

On May 4, 2018, Plaintiff, Sonjia Mack (Plaintiff), filed a Civil Rights Complaint (Complaint) pursuant to 42 U.S.C. Section 1983, alleging five causes of action: ECF No. 1. (1) Due Process violation pursuant to the Fourteenth Amendment and Article 1 Section 8 of the Nevada Constitution against Defendants Emling and Laurian; (2) Cruel and Unusual Punishment pursuant to the Eighth Amendment and Article 1 Section 6 of the Nevada Constitution against Defendants Emling and Laurian; (3) Unreasonable Search and Seizure pursuant to the Fourth Amendment and Article 1 Section 18 of the Nevada Constitution against Defendants Emling and Laurian; (4) Due Process violation pursuant to the Fourteenth Amendment and Article 1 Section 8 of the Nevada Constitution against Defendants Williams and Dzurenda; (5) an equal protection claim pursuant to the Fourteenth Amendment against Defendants Williams and Dzurenda. ECF No. 1.

II. STATEMENT OF UNDISPUTED FACTS

On the morning of February 19, 2017, Sonjia Mack and Tina Cates arrived at the High Desert State Prison to visit their respective certain prisoners. ECF No. 1 at 3. After routine processing, Mack and Cates were waiting in the visiting room area. *Id.* Cates was approached by Defendant Emling, who asked her to follow him outside. *Id.* Shortly thereafter, an unidentified gentlemen approached Mack and escorted her to an administrative building. *Id.* They turned her over to Defendant Laurian—a female—who then escorted Mack to a room and performed a strip search. *Id.* Before the search occurred, Mack had signed a “Consent to Search, DOC-1615,” attached as **Exhibit 1**, stating the following:

I, the undersigned, being free from coercion, duress, threats or force of any kind, do hereby freely and voluntarily consent to the search of my person, vehicle and other property which I have brought onto prison grounds. I agree that the search maybe conducted by duly authorized Correctional Officers of the Department of Corrections or by other law enforcement officers specifically authorized by the Warden. I understand that if I do

...

not consent to the search of my person, vehicle or other property, I will be denied visitation on this date and may also be denied future visits pursuant to Administrative Regulation 719.

On or about February 22, 2017, Mack received a letter stating that her visiting privileges were suspended indefinitely, and she would not be allowed to return to High Desert State Prison (HDSP) without written request and permission from the HDSP Warden or Nevada Department of Corrections (NDOC) Director. *Id.* at 5. Mack's attorney faxed a letter to Defendants Dzurenda and Williams, seeking to have Mack's visiting privileges restored. *Id.* Defendants Dzurenda and Williams did not respond to Mack's attorney. *Id.* The NDOC has upheld Mack's visiting privileges being suspended indefinitely. *Id.*

III. LEGAL STANDARD

A. Summary Judgment Under FED. R. CIV. P. 56

"The purpose of summary judgment is to avoid unnecessary trial when there is no dispute as to the facts before the court." *Northwest Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18 F.3d 1468, 1471 (9th Cir. 1994) (citation omitted). "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a). Summary judgment should be granted where a party fails "to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The court shall consider all admissible affidavits and supplemental documents attached to a motion for summary judgment. *See Connick v. Teachers Ins. & Annuity Ass'n*, 784 F.2d 1018, 1020 (9th Cir. 1986). The moving party has the initial burden of demonstrating that summary judgment is proper, *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 152 (1970), and factual inferences should be drawn viewed in the light most favorable to the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

To defeat summary judgment, the nonmoving party cannot rely on conclusory allegations. *Berg v. Kincheloe*, 794 F.2d 457, 459 (9th Cir. 1986). Rather, the nonmovant

must present “specific facts showing there is a genuine issue for trial.” *Anderson*, 477 U.S. at 256. The nonmovant’s evidence should be such that a “fair minded jury could return a verdict for [him or her] on the evidence presented.” *Id.* at 255. In attempting to establish the existence of this factual dispute, the opposing party may not rely on the allegations or denials of its pleadings but is required to tender evidence of specific facts in the form of affidavits or admissible discovery materials, in supports of its contention that the dispute exists. *See* FED. R. CIV. P. 56(c)(1).

IV. ARGUMENT

A. **There are no Genuine Issues of Material Fact Related to the Alleged Eighth Amendment Violation and Defendants are Entitled to Judgment as a Matter of Law**

Plaintiff, who is neither a prisoner nor pre-trial detainee, alleges in her Second Cause of Action that her Eighth Amendment right to be free from cruel and unusual punishment was violated when Defendants Emling and Laurian “detained Ms. Mack without probable cause and conducted a warrantless strip search of her person without her consent.” ECF No. 1 at 7.

“Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions.” *Ingraham v. Wright*, 97 S. Ct. 1401, 1412, n. 40 (1977). “[T]he State does not acquire the power to punish with which the Eighth Amendment is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law.” *Id.*; *see also Bell v. Wolfish*, 99 S. Ct. 1861, 1873, n. 16 (1979) (same). The Eighth Amendment “applies only to individuals who are being punished, and thus does not protect those against whom the government has not secured a formal adjudication of guilt in accordance with due process of law.” *Shaw v. Dist. of Columbia*, 825 F. Supp. 2d 173, 177 (D.D.C. 2011) (internal quotation marks and citation omitted).

In this case, Plaintiff is not a convicted prisoner. Plaintiff was visiting a convicted prisoner. It is well established that the Eighth Amendment does not apply to Plaintiff in this case because she is not a convicted prisoner.

Even if the Eighth Amendment did apply, it is not cruel and unusual punish for a person to be subjected to a strip search pursuant to the person's verbal and written consent, as well as reasonable suspicion. Additionally, Plaintiff admitted that she was never handcuffed during the entire visit at the High Desert State Prison on February 19, 2017. *See* Plaintiff's Responses to Defendants' Requests for Admissions, attached as **Exhibit 2**, at 3. Therefore, there are no genuine issues of material fact related to Plaintiff's Second Cause of Action, and Defendants are entitled to judgment as a matter of law.

B. There are no Genuine Issues of Material Fact Related to the Alleged Fourth Amendment Violations and Defendants are Entitled to Judgment as a Matter of Law

Plaintiff alleges that she was "denied and deprived of her rights against unreasonable search and seizure . . . by Defendants Emling, Laurian . . . when they detained her without probable cause and conducted a warrantless strip search of her person without her consent." ECF No. 1 at 7.

The United States Supreme Court stated in 1973 that it is "well settled that one of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent." *Schneckloth v. Bustamonte*, 93 S. Ct. 2041, 2043–44 (1973). Consistent with this long-standing rule, the Ninth Circuit has acknowledged the "well-settled exception to the warrant requirement that an individual may waive his [or her] Fourth Amendment rights by giving voluntary and intelligent consent to a warrantless search of his person, property, or premises." *United States v. Cormier*, 220 F.3d 1103, 1112 (9th Cir. 2000) (internal quotation marks omitted).

Here, Plaintiff signed a consent to search form, where she "freely and voluntarily consent[ed] to the search of [her] person, vehicle and other property which [she] brought onto prison grounds." Exhibit 1. Plaintiff also admitted that she signed a consent to search form, consenting to search of her person, vehicle and any other property she brought onto prison grounds. Exhibit 2, at 1-2. Plaintiff also admitted that she did not revoke her consent to search before being searched or during the search. *Id.* at 2. Further, both Defendants Emling and Laurian stated that Ms. Mack willingly consented to the search. *See* Defendant

1 Emling's Responses to Plaintiff's Interrogatories, attached as **Exhibit 3**, at 5; *see also*
2 Defendant Laurian's Responses to Plaintiff's Interrogatories, attached as **Exhibit 4**, at 5.
3 Specifically, Defendants Emling and Laurian stated that Plaintiff verbally consented to the
4 strip search. *See* Exhibit 3 at 5; *see also* Exhibit 4 at 5.

5 While the oral and written consent were enough to justify the search, even if this
6 Court were to find a factual question in that regard (which there is not), Defendants also
7 had reasonable suspicion to conduct a strip search. Reasonable suspicion is all that is
8 required to strip search a prison visitor according to persuasive authority. *See O'Con v.*
9 *Katavich*, 1:13-CV-1321-AWI-SKO, 2013 WL 6185212, at *6 (E.D. Cal. Nov. 26, 2013)
10 ("While subjecting a prison visitor to a strip search in the absence of a warrant does not
11 require probable cause, the weight of authority indicates that officers must have reasonable
12 suspicion."). In *O'Con*, the District Court went on to state, "[a]lthough not yet addressed by
13 the Ninth Circuit in a published opinion, many other Courts of Appeals have concluded
14 that, after weighing the state's legitimate interest in prison security against the privacy
15 rights of prison visitors, a visitor may only be subjected to a strip search if the search is
16 supported by reasonable suspicion." *Id.* at 5.

17 Specifically, the Sixth Circuit held that "the residual privacy interests of visitors in
18 being free from such an invasive search requires that prison authorities have at least a
19 reasonable suspicion that the visitor is bearing contraband before conducting such a
20 search." *Spear v. Sowders*, 71 F.3d 626, 630 (6th Cir. 1995). The Sixth Circuit went on to
21 say "that the law was clearly established by the time of the search in this case that the
22 Fourth Amendment required reasonable suspicion before authorizing a body cavity search."
23 *Id.* "Three circuits had reached this conclusion in the mid-1980s." *Id.* By 1995, at least five
24 circuits had held that the Fourth Amendment required reasonable suspicion before
25 authorizing a visual cavity search. *See id.*; *Blackburn v. Snow*, 771 F.2d 556, 564-66 (1st
26 Cir. 1985); *Thorne v. Jones*, 765 F.2d 1270, 1277 (5th Cir. 1985); *Hunter v. Auger*, 672 F.2d
27 668, 674 (8th Cir. 1982); *Boren v. Deland*, 958 F.2d 987, 988 (10th Cir. 1992).

28 . . .

1 This reasonable suspicion standard makes sense as the Ninth Circuit Court of
2 Appeals has held that “[t]here is no question that the government has an interest in the
3 security of its prisons which will justify searches in the prison context **which would not**
4 **otherwise be reasonable.**” *Kirkpatrick v. City of Los Angeles*, 803 F.2d 485, 488 (9th Cir.
5 1986) (emphasis added). Reasonable suspicion exists when the officer responsible for the
6 search is aware of specific articulable facts and inferences from those facts that warrant a
7 suspicion that contraband will be recovered. *Id.* at 490. In *Alabama v. White*, 110 S. Ct.
8 2412, 2416 (1990), the Supreme Court of the United States stated:

9 Reasonable suspicion is a less demanding standard than
10 probable cause not only in the sense that reasonable suspicion
11 can be established with information that is different in quantity
12 or content than that required to establish probable cause, but
also in the sense that reasonable suspicion can arise from
information that is less reliable than that required to show
probable cause.

13 Additionally, the Supreme Court has recognized that “detention facilit[ies are] a unique
14 place fraught with serious security dangers. Smuggling of money, drugs, weapons, and
15 other contraband is all too common . . . [a]nd inmate attempts to secrete these items into
16 the facility by concealing them in body cavities are [well] documented” *Bell v. Wolfish*,
17 99 S. Ct. 1861, 1884 (1979).

18 Here, Defendants had probable cause to believe that Ms. Tina Cates, who drove Ms.
19 Mack to the prison, was introducing illegal controlled substances and/or narcotics to the
20 prison facility. *See* Search and Seizure Warrant, attached as **Exhibit 5**. In addition,
21 Defendants had information, and Ms. Mack admitted to Defendant Emling, that she was
22 instructed by an inmate (whom she was there to visit) to pay \$300 to an unknown Hispanic
23 male. *See* Exhibit 3 at 5. Considering all the information that was available to Defendants
24 at the time, Defendants had a reasonable suspicion to conduct a strip search of Ms. Mack.

25 Accordingly, the undisputed facts establish that Mack provided both oral and verbal
26 consent to the search. In addition to the search being valid based on consent, the search
27 was appropriate under the reasonable suspicion standard even without a search warrant.
28 . . .

Thus, there are no genuine issues of material fact related to Plaintiff's Third Cause of Action and Defendants are entitled to judgment as a matter of law.

C. There are no Genuine Issues of Material Fact Related to the Alleged Due Process Violations and Defendants are Entitled to Judgment as a Matter of Law

"An individual claiming a protected liberty interest must be legitimately entitled to it." *Egberto v. McDaniel*, 3:08-CV-00312-HDM-VPC, 2011 WL 1233358, at *8 (D. Nev. Mar. 28, 2011), *aff'd*, 565 Fed. Appx. 663 (9th Cir. 2014). "Certain prison regulations may create liberty interests protected by the Fourteenth Amendment. However, most prison regulations are designed to guide prison officials in the administration of the prison, not confer rights on inmates." *Id.* (internal citation omitted). "Further, any prison regulation that creates a liberty interest must contain 'substantive limitations on official discretion' or 'explicit mandatory language.'" *Id. citing Kentucky Dept. of Corr. v. Thompson*, 490 U.S. 454, 460, 462 (1989). "[T]he most common manner in which a State creates a liberty interest is by establishing 'substantive predicates' to govern official decision-making, and, further, by mandating the outcome to be reached upon a finding that the relevant criteria have been met." *Thompson*, 490 U.S. at 462. "A Nevada inmate and prison visitor are never guaranteed visitation, which is a discretionary privilege and not a right." *Egberto, supra*. In *Thompson*, the Supreme Court held "[t]he denial of prison access to a particular visitor is well within the terms of confinement ordinarily contemplated by a prison sentence, and therefore is not independently protected by the Due Process Clause." 490 U.S. at 461 (internal citation and quotation marks omitted); *see also Dunn v. Castro*, 621 F.3d 1196, 1201 (9th Cir. 2010).

The Fifth Circuit has repeatedly held that a prisoner does not have an absolute right to visitation, and visitation privileges are subject to the discretion of prison officials. *See Samford v. Dretke*, 562 F.3d 674, 682 (5th Cir.2009) (holding the removal of prisoner's sons from the approved visitors' list did not violate his constitutional rights); *Berry v. Brady*, 192 F.3d 504, 508 (5th Cir. 1999) ("Berry has no constitutional right to visitation privileges."); *Davis v. Carlson*, 837 F.2d 1318, 1319 (5th Cir. 1988) (holding prisoners do

not have a constitutional right to contact visits); *Thorne v. Jones*, 765 F.2d 1270, 1273 (5th Cir. 1985) (holding prisoner had no absolute right to visits from his parents); *Lynott v. Henderson*, 610 F.2d 340, 342 (5th Cir. 1980) (holding that “convicted prisoners have no absolute constitutional right to visitation”); *McCray v. Sullivan*, 509 F.2d 1332, 1334 (5th Cir. 1975) (“Visitation privileges are a matter subject to the discretion of prison officials.”). The Eleventh Circuit has agreed with the Fifth Circuit, stating: “[a] convicted prisoner has no absolute constitutional right to visitation, such privilege being subject to the discretion of prison authorities, provided the visitation policies of the prison meet legitimate penological objectives.” *Evans v. Johnson*, 808 F.2d 1427, 1428 (11th Cir. 1987).

1. First Cause of Action

Plaintiff alleges that her Fourteenth Amendment right to due process was violated when Defendants Emling and Laurian “detained Ms. Mack without probable cause and conducted a warrantless strip search of her person without her consent.”

Noted throughout this Motion, Plaintiff acknowledged that she “freely and voluntarily consent[ed] to the search of [her] person, vehicle and other property which [she] brought onto prison grounds.” See Exhibit 2. The consent form voluntarily signed by Mack not only permitted the NDOC to search her person, but also her vehicle and any other property she brought onto prison grounds. Exhibit 1, at 1-2. Mack also admitted that she did not revoke her consent to search before being searched or during the search. *Id.* at 2.

Further, both Officers Emling and Laurian stated that Ms. Mack willingly consented to the search, including strip search. See Officer Emling’s Responses to Plaintiff’s Interrogatories, attached as Exhibit 3, at 5; see also Officer Laurian’s Responses to Plaintiff’s Interrogatories, attached as Exhibit 4, at 5. Mack was also aware that she was not detained and she could leave at any time. This is made evident from the fact that, at one point during the search, Mack told Officer Laurian that she was leaving and proceeded to leave. In other words, Mack was aware that she was free to leave at any time because Officer Emling informed her prior to the search that she was free to leave at any time and did not have to answer any questions. See Exhibit 3, at 5. Simply put, Mack’s Fourteenth

1 Amendment right to due process was never violated, as she consented to the search and
2 was free to revoke her consent at any time. Accordingly, there are no genuine issues of
3 material fact as to Plaintiff's First Cause of Action and Defendants are entitled to judgment
4 as a matter of law.

5 **2. Fourth Cause of Action**

6 Plaintiff alleges that her Fourteenth Amendment right to due process was violated
7 when Defendants Williams and Dzurenda "upheld or maintained the indefinite
8 termination/suspension of Ms. Mack's visiting privileges." ECF No. 1 at 8.

9 Here, Mack is unable to point to any administrative regulations that may lead her
10 to believe that she has any liberty interest in visiting an inmate. There is no case law or
11 statute to support the proposition that Mack has any liberty interest in visitation of an
12 inmate. Additionally, NDOC has imperative safety and security interest in maintaining
13 control over who comes to the prison for visitation. Here, Defendants had important
14 penological interest in preventing a visitor from introducing illegal substances and/or
15 narcotics to the prison. To protect such safety and security interest, NDOC should and does
16 have sound discretion over inmate visitation. Therefore, there are no genuine issues of
17 material fact as to Plaintiff's Fourth Cause of Action and Defendants are entitled to
18 judgment as a matter of law.

19 **D. There are no Genuine Issues of Material Fact Related to the Alleged**
20 **Equal Protection Violation and Defendants are Entitled to Judgment**
21 **as a Matter of Law**

22 Plaintiff alleges that her Fourteenth Amendment rights were violated when
23 Defendants Williams and Dzurenda "indefinitely terminated, and/or upheld or maintained
24 the indefinite termination, of [Plaintiff's] visiting privileges while allowing others similarly
25 situated visitors to maintain [their visiting privileges]."

26 Plaintiff asserts her equal protection claim based on a class of one theory pursuant
27 to *Vill. of Willowbrook v. Olech*, 120 S. Ct. 1073, 1074 (2000) ("Our cases have recognized
28 successful equal protection claims brought by a 'class of one,' where the plaintiff alleges
...

1 that she has been intentionally treated differently from others similarly situated and that
2 there is no rational basis for the difference in treatment.”). *See* ECF No. 16 at 2.

3 “Where a plaintiff does not allege a violation of a fundamental right or the existence
4 of a suspect classification, prison officials need only show that their policies bear a rational
5 relationship to a legitimate penological interest in order to satisfy the equal protection
6 clause.” *Egberto, supra*; *see also Coakley v. Murphy*, 884 F.2d 1218, 1221-22 (9th Cir. 1989).
7 “A regulation or policy neither involving fundamental rights nor proceeding along suspect
8 lines is accorded a strong presumption of validity Thus, the highly deferential rational
9 basis standard applies to any equal protection challenges to such regulations.” *Egberto,*
10 *supra* (internal citation omitted). The suspension of the visiting privileges of a prison visitor
11 is a valid, rational response to preventing the introduction of drugs and contraband to the
12 prison. *See Egberto, supra*; *see also Robinson v. Palmer*, 841 F.2d 1151, 1156–57 (D.C. Cir.
13 1988) (holding that the permanent denial of face-to-face communications between inmate
14 and his wife was not an “exaggerated response” to the perceived threat of visitors
15 introducing drugs into the prison).

16 In this case, Mack’s visiting privileges were suspended because of the information
17 that was gathered by the Inspector General’s Office in addition to her association with Ms.
18 Cates. *See* Defendant Williams’ Responses to Plaintiff’s Interrogatories, attached as
19 **Exhibit 6**, at 5-6. In other words, Defendants had a legitimate reason to suspend Plaintiff’s
20 visiting privileges. NDOC has imperative safety and security interest in maintaining
21 control over who comes to the prison for visitation. Here, Defendants had important
22 penological interest in preventing a visitor from bringing in illegal substances and/or
23 narcotics to the prison. Such interest is sufficient to satisfy the constitutional muster under
24 the Equal Protection clause of the Fourteenth Amendment. Accordingly, there are no
25 genuine issues of material fact as to Mack’s Fifth Cause of Action and Defendants are
26 entitled to judgment as a matter of law.

27 . . .

28 . . .

E. Defendants are also Entitled to Qualified Immunity

In addition to being entitled to summary judgment based on the lack of any material issue of genuine fact that would permit a jury to rule in favor of Mack, Defendants are also entitled to summary judgment in this case under the doctrine of qualified immunity.

Whether governmental employees are entitled to qualified immunity is a question of law subject to *de novo* review before this Court. *Devereaux v. Perez*, 218 F.3d 1045, 1051 (9th Cir. 2000) (citing *Elder v. Holloway*, 510 U.S. 510, 516 (1994); *Thompson v. Mahre*, 110 F.3d 716, 721 (9th Cir. 1997)). Like summary judgment motions, “[t]his court must assume the relevant facts in the light most favorable to the plaintiff, and then determine whether the defendants are nonetheless entitled to qualified immunity as a matter of law.” *Devereaux*, 218 F.3d at 1051 (citing *Moran v. Washington*, 147 F.3d 839, 944 (9th Cir. 1998)).

The plaintiff bears the burden of demonstrating that the underlying right was clearly established at the time of the alleged misconduct. If the plaintiff meets this burden then the officials must prove that “their conduct was reasonable under the applicable standards even though it might have violated the plaintiff’s constitutional rights.” [*Devereaux, supra* (citing *Romero v. Kitsay Cty.*, 931 F.2d 624, 627 (9th Cir. 1991) and *Benigni v. City of Hemt*, 879 F.2d 473, 480 (9th Cir. 1998)).]

It is a long-standing principle that governmental officials are shielded from civil liability under the doctrine of qualified immunity. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1992).

The defense of qualified immunity protects “government officials . . . from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” The rule of qualified immunity “provides ample support to all but the plainly incompetent or those who knowingly violate the law.” “Therefore, *regardless of whether the constitutional violation occurred*, the officer should prevail if the right asserted by the plaintiff was not ‘clearly established’ or the officer could have reasonably believed that his particular conduct was lawful.” Furthermore, “[t]he entitlement is an immunity from suit rather than a mere defense to liability; . . . it is effectively lost if a case is erroneously permitted to go to trial.” [*Schroeder v. McDonald*, 55 F.3d 1115, 1121 (9th Cir. 2014) (quoting *Robinson v. York*, 566 F.3d 817, 821 (9th Cir. 2009)).]

...

1 When conducting the qualified immunity analysis, courts “ask (1) whether the official
2 violated a constitutional right and (2) whether the constitutional right was clearly
3 established.” *C.B. v. City of Sonora*, 760 F.3d 1005, 1022 (9th Cir. 2015) (citing *Pearson v.*
4 *Callahan*, 555 U.S. 223, 232, 236 (2009)).

5 The second inquiry, whether the constitutional right in question was clearly
6 established, is an objective inquiry that turns on whether a reasonable official in the
7 position of the defendant knew or should have known at the time of the events in question
8 that his or her conduct was constitutionally infirm. *Anderson v. Creighton*, 483 U.S. 635,
9 639-40 (1987); *Lacey v. Maricopa Cty.*, 693 F.3d 896, 915 (9th Cir. 2012). Only where a
10 governmental official’s belief as to the constitutionality of his or her conduct is “plainly
11 incompetent” is qualified immunity unavailable. *Stanton v. Sims*, 134 S. Ct. 3, 5 (2013) (per
12 curiam). Governmental officials are entitled to high deference when making this
13 determination, *Anderson*, 483 U.S. at 640, requiring the Court to assess whether qualified
14 immunity is appropriate “in light of the specific context of the case.” *Tarabochia v. Adkins*,
15 766 F.3d 1115, 1121 (9th Cir. 2014) (quoting *Robinson v. York*, 566 F.3d 817, 821 (9th Cir.
16 2009)).

17 In determining “whether a [constitutional] right was clearly established,” this Court
18 is to survey the law within this Circuit and under Supreme Court precedent “at the time
19 of the alleged act.” *Perez v. United States*, 103 F. Supp. 3d 1180, 1208 (S.D. Cal. 2015)
20 (quoting *Cnty. House, Inc. v. City of Boise*, 623 F.3d 945, 967 (2010); citing *Bryan v.*
21 *MacPherson*, 630 F.3d 805, 933 (9th Cir. 2010). Only in situations where there is no
22 precedent regarding the qualified immunity question at issue should this Court look to
23 “other circuits and district courts to ascertain whether the law is clearly established.” *Cnty.*
24 *House*, 623 F.3d at 967 (citing *Osolinski v. Kane*, 92 F.3d 934, 936 (9th Cir. 1996)).

25 If forced to look at cases outside of the Ninth Circuit or the Supreme Court, this
26 Court should take into account whether there is disagreement among judges considering
27 whether a particular law was clearly established. *Perez*, 103 F. Supp. 3d at 1208 (citing
28 *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 378 (2009)). In either case, the

precedent must decide the constitutional questions “beyond debate” for a court to hold that a government official is not entitled to qualified immunity. *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011) (citing *Anderson*, 483 U.S. at 640; *Malley v. Briggs*, 475 U.S. 335, 341 (1986)).

On January 9, 2017, the Supreme Court unanimously reiterated what is meant by clearly established. There, in the case of *White v. Pauly*, 137 S.Ct. 548 (2017) (per curiam) (2017), the Court instructed as follows:

Today, it is again necessary to reiterate the longstanding principle that “clearly established law” should not be defined “at a high level of generality.” As this Court explained decades ago, the clearly established law must be “particularized” to the facts of the case. Otherwise, “[p]laintiffs would be able to convert the rule of qualified immunity . . . into a rule of virtually unqualified liability simply by alleging violation of extremely abstract rights.”

The panel majority misunderstood the “clearly established” analysis: It failed to identify a case where [the government officials] acting under similar circumstances . . . [were] held to have violated the [Constitution]. [*White*, 137 S.Ct. at 551-52].

The Ninth Circuit had the opportunity to further explain the dictates of *White* in its May 12, 2017 decision in *S.B. v. County of San Diego*, 864 F.3d 1010 (9th Cir. 2017). There, the Ninth Circuit “acknowledge[d] the Supreme Court’s recent frustration with failures to heed its holdings,” and that the Court had “repeatedly told courts—and the Ninth Circuit in particular—not to define clearly established law at a high level of generality.” *Id.* at 1015. The *S.B.* court then acknowledged that it heard the Supreme Court “loud and clear,” and noted that “[b]efore a court can impose liability on [a government employee, it] must identify precedent as of the date” of the alleged constitutional deprivation, “that would put [the government employee] on clear notice that” the individual’s action “in [this] particular circumstance[] would” violate the constitution. *Id.*

The burden of proving whether the particular right in question was clearly established rests with the non-governmental party. *Greene v. Camreta*, 588 F.3d 1011, 1031 (9th Cir. 2009), *vacated in part on other grounds*, 661 F.3d 1201 (9th Cir. 2011) (citing . . .

1 *Galen v. Cty. of L.A.*, 477 F.3d 652, 655 (9th Cir. 2007)); *see also Kennedy v. City of*
2 *Ridgefield*, 439 F.3d 1055, 1065 (9th Cir. 2006).

3 Mack cannot meet this burden.

4 With regard to the first prong, i.e., whether a constitutional right existed, for the
5 reasons noted above, Defendants maintain that none of their actions constitute a violation
6 of any constitutional right. Rather, the search was wholly justified under the voluntary
7 consent Mack provided. They were also consistent with the Fourth Amendment given that
8 reasonable suspicion permitted the search. In addition, because Mack was not incarcerated
9 at the time of the searches, the Eighth Amendment simply does not apply. Finally,
10 Defendants actions do not run afoul of the Equal Protection clause of the Fourteenth
11 Amendment, as the search of Mack had a rational relationship to a legitimate penological
12 interest of preventing narcotics from being introduced to the prison.

13 With regard to the second prong, i.e., whether an objectively reasonable official in
14 the position of the Defendants were on clear notice that their actions violated the
15 constituted, Mack will be unable to provide this Court with any case that would have put
16 Defendants on “clear notice” that their actions in this case violated Mack’s constitutional
17 rights. This is made clear based on the legal precedent set forth in this motion which
18 establishes the lack of any constitutional violation. Therefore, if this Court were to
19 conclude, contrary to the legal authorities referenced herein that a constitutional violation
20 did, or may have, occurred, then it would be clear that no previous case placed Defendants
21 on notice.

22 As such, Defendants are entitled to qualified immunity. Thus, in addition to the
23 merits, this Court has yet another alternative basis grant summary judgment in favor of
24 Defendants.

25 **V. CONCLUSION**

26 In this case, there are no genuine issues of material fact remaining for adjudication.
27 Defendants never violated any of Mack’s constitutional rights. Rather, the search was
28 wholly justified under the voluntary consent Mack provided. They were also consistent with

1 the Fourth Amendment given that reasonable suspicion permitted the search. In addition,
2 because Mack was not incarcerated at the time of the searches, the Eighth Amendment
3 simply does not apply. Additionally, Defendants actions do not run afoul of the Equal
4 Protection clause of the Fourteenth Amendment, as the search of Mack had a rational
5 relationship to a legitimate penological interest of preventing narcotics from being
6 introduced to the prison. Finally, Defendants are entitled to qualified immunity.

7 In *Cates v. Stroud et al.*, Case No. 2:17-cv-01080-GMN-PAL, which is a case filed by
8 Cates who drove Mack to the prison, this Court granted Defendants' Motion for Summary
9 Judgment. *Cates* and this case have similar factual allegations, so similar that Mack had
10 filed a Motion to Consolidate this case with *Cates*. (See ECF No. 36). Like *Cates*, Defendants
11 here are entitled to judgment as a matter of law. Accordingly, Defendants respectfully
12 request that this Court grant Defendants' Motion for Summary Judgment as to all of
13 Mack's Causes of Action in favor of Defendants.

14 DATED this 20th day of December, 2018.

15 ADAM PAUL LAXALT
16 Attorney General

17 By: /s/ Henry H. Kim
18 HENRY H. KIM (Bar No. 14390)
19 Deputy Attorney General

20 *Attorneys for Defendants*
21 *James Dzurenda, Arthur Emling,*
22 *Mayra Laurian, and Brian Williams*
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on December 20, 2018, I electronically filed the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically.

Travis N. Barrick, Esq.
Gallian Welker & Beckstrom, LC
540 East St. Louis Avenue
Las Vegas, Nevada 89104
Attorneys for Plaintiff

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

EXHIBIT 1

CONSENT TO SEARCH
DOC-1615

EXHIBIT 1

NEVADA DEPARTMENT OF CORRECTIONS

CONSENT TO SEARCH

I, the undersigned, being free from coercion, duress, threats or force of any kind, do hereby freely and voluntarily consent to the search of my person, vehicle and other property which I have brought onto prison grounds. I agree that the search may be conducted by duly authorized Correctional Officers of the Department of Corrections or by other law enforcement officers specifically authorized by the Warden. I understand that if I do not consent to the search of my person, vehicle or other property, I will be denied visitation on this date and may also be denied future visits pursuant to Administrative Regulation 719.

Inmate's Name Karl JoshuaI.D. Number 57165Signed this 19 day of FEBRUARY 2017In the City of INDIAN SPRINGS, State of Nevada.Sonja Mack
SignatureSonja Mack
Print Name2850 E. Cedar Ave #237
Street AddressLas Vegas, NV 89101
City, State, Zip code

Witnesses:

PN

EXHIBIT 3

DEFENDANT EMLING'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

EXHIBIT 3

ADAM PAUL LAXALT
Nevada Attorney General
HENRY H. KIM (Bar No. 14390)
Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
Telephone: (702) 486-3095
Facsimile: (702) 486-3773
E-Mail: hkim@ag.nv.gov

*Attorneys for Defendants
Mayra Laurian, James Dzurenda,
Brian Williams, and Arthur Emling*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SONJIA MACK,

Plaintiff,

vs.

BRIAN E. WILLIAMS, Sr., et al.,

Defendants.

Case No. 2:18-cv-799-APG-VCF

**DEFENDANT EMLING'S RESPONSES
TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

Defendant, Arthur Emling, by and through counsel, Adam Paul Laxalt, Nevada Attorney General, and Henry H. Kim, Deputy Attorney General, hereby submits these Responses to Plaintiff's First Set of Interrogatories.

I. RESERVATION OF RIGHTS

1. Defendants are bound to comply with statutes, regulations, and protocols governing the dissemination of confidential information pertaining to prison administration. In preparing these responses, Defendants may not yet have discovered all such bases of confidentiality upon which to interpose an objection to a discovery request presented herein. Accordingly, Defendants reserve the right to assert additional bases of confidentiality at a later time, when their applicability to the discovery request is realized;

2. Defendants have not fully completed their investigation of the facts related to this case, have not completed this discovery, or completed preparation for trial. All

1 responses contained herein are based solely upon such information and documentation as
2 are presently available to, and physically known to, Defendants. As such, these answering
3 Defendants disclose *only* that information or those documents that they presently have or
4 are authorized to access. These responses are hereby given with the understanding that
5 Defendants reserve the right to revise or amend them as facts or documents become
6 subsequently known. It is anticipated that further discovery, investigation, research, and
7 analysis will supply additional facts and documents, in addition to known facts and
8 documents, as well as may establish entirely new factual conclusions and legal contentions,
9 all of which may lead to additions to, changes in, or variations from, the responses below set
10 forth;

11 3. For documents identified and produced herein, Defendants are required only
12 to gather, review, and produce these documents for Plaintiff's inspection. Plaintiff, as the
13 requesting party, bears the financial burden of duplicating any documents he inspects, for
14 his own use for this litigation. Thus, Plaintiff will be required to bear the cost of making
15 copies of these documents for his own use in this litigation, and Defendants object to
16 paying for these copying costs.

17 II. GENERAL OBJECTIONS

18 1. Each response given to each interrogatory is subject to all objections
19 including, but not limited to, privilege, relevancy, authenticity, and admissibility, which
20 would require exclusion of the evidence if it were offered in Court, all of which objections
21 and grounds are hereby reserved.

22 2. Defendant objects to these Interrogatories to the extent that each seeks
23 information which is confidential or privileged from disclosure pursuant to Nevada
24 Department of Corrections (NDOC) Administrative Regulations (AR), including but not
25 limited to AR 568 and AR 569.

26 3. Defendant objects to these Interrogatories to the extent each is overly broad
27 or unduly burdensome.

28 ///

1 4. Defendant objects to these Interrogatories to the extent that the burden or
2 expense of responding to such Interrogatories outweigh the benefit of such
3 Interrogatories.

4 5. Defendant objects to these Interrogatories to the extent that each is neither
5 relevant to the subject matter of the pending action nor appear reasonably calculated to
6 lead to the discovery of admissible evidence.

7 6. By responding to these Interrogatories, Defendant does not in any way adopt
8 Plaintiff's purported definitions of words and phrases contained in Plaintiff's requests.
9 Defendant objects to those definitions to the extent they are inconsistent with the
10 ordinary and customary meaning of such words and phrases. Similarly, Defendant objects
11 to Plaintiff's purported definitions to the extent they attempt to impose on Defendant any
12 obligation broader than, or inconsistent with, applicable discovery rules or common law.

13 7. Defendant does not hereby admit, adopt or acquiesce in any factual or legal
14 contention, presumption, assertion or characterization contained in these Interrogatories.

15 8. Defendant objects to these Interrogatories to the extent they purport to
16 impose obligations beyond those imposed by the Federal Rules of Civil Procedure and the
17 Local Rules of this Court.

18 9. Defendant objects to these Interrogatories to the extent they are
19 unreasonably cumulative or duplicative, vague, ambiguous, overly broad, unduly
20 burdensome, or do not specify the information sought with sufficient particularity.

21 10. Defendant submits these responses without conceding the relevancy or
22 materiality of the subject matter of any Interrogatory and without prejudice to
23 Defendant's right to object to further discovery or to object to the admissibility of any
24 answer at the time of hearing or trial.

25 11. Defendant reserves his right to amend or supplement these answers and
26 objections.

27 These general objections are incorporated by reference into each specific answer
28 made by Defendant to Plaintiff's Interrogatories.

1 **III. RESPONSES**

2 **INTERROGATORY NO. 1:**

3 What were the actual circumstances that brought about the investigation of Ms.
4 Mack for suspicion of bringing drugs or contraband into HDSP?

5 **RESPONSE TO INTERROGATORY NO. 1:**

6 Ms. Mack was not suspected of bringing drugs or contraband into HDSP.

7 **INTERROGATORY NO. 2:**

8 If there was sufficient reason to believe that Ms. Mack had been bringing, or
9 attempting to bring, drugs or contraband into HDSP, why were her visiting privileges not
10 suspended or terminated prior to the morning of February 19, 2017?

11 **RESPONSE TO INTERROGATORY NO. 2:**

12 Ms. Mack was not suspected of bringing drugs or contraband into HDSP.

13 **INTERROGATORY NO. 3:**

14 Fully describe the manner and circumstances in which you and your coworker,
15 Myra [sic] Laurian, approached Ms. Mack and her traveling companion, Tina Cates, on
16 the morning of February 19, 2017, at HDSP with regards to searching them.

17 **RESPONSE TO INTERROGATORY NO. 3:**

18 Objection, this interrogatory is vague. It is unclear what is meant by "manner and
19 circumstances" and "approached" as written.

20 Notwithstanding and without waiving said objection, Defendant hereby answers:
21 (Paraphrased) I, CI Emling and CI Laurian approached Ms. Cates in the Gatehouse of
22 HDSP after she signed her consent to search form revealing her intent to visit Gonzalez.
23 I, CI Emling and Laurian, approached Ms. Cates and asked her if she would be inclined
24 to come with us so we could clear a few things up. She obliged, but she stopped us before
25 entering the Admin building and we spoke to her there. She asked what "this" was about.
26 I told Cates that she did not have to answer any questions and could leave at any time.
27 Mack was approached by two other Correctional Officers at a later time. Officer Ronczka
28 and Officer Krohm (CERT) of HDSP. I do not know the manner or circumstances of how

1 she was approached. In the Administration Building I approached Mack and informed
2 her she could leave at any time and did not have to answer any questions. She agreed to
3 stay and answer my questions.

4 **INTERROGATORY NO. 4:**

5 Did you in fact question Ms. Mack about her suspected involvement in the
6 commission of drug crimes on the morning of February 19, 2017, at HDSP? If so, detail
7 the questions you asked her along with her responses.

8 **RESPONSE TO INTERROGATORY NO. 4:**

9 Objection, this interrogatory is also a request for production of documents. To the
10 extent that this interrogatory is asking for a list of questions, they will not be provided
11 until requested formally in a request for production of documents.

12 Notwithstanding and without waiving said objection, Defendant hereby answers:
13 (Paraphrased) I asked her what she arrived in to HDSP in and she stated she rode with
14 Cates, a person she stated she does not know and was the first time meeting her. I asked
15 her if she had anything illegal on her person that investigators should be concerned about
16 and her response was that she has nothing and insisted that we search her so we can
17 "clear" her because she had nothing to hide. Mack was asked if she would be willing to
18 consent to an unclothed search where she would remove her clothing and she agreed
19 stating that we can do what we need to do to clear her. I asked her about the \$300 bill she
20 paid for Joshua and she admitted she had paid the bill as instructed by Joshua and that
21 she had paid it to an unknown Hispanic male, but did not know what it was for. She
22 refused to elaborate as to where and when. She agreed with me when I informed her that
23 I was aware that Joshua is engaging in a lot of criminal activity. I requested of her that
24 she cooperate, as it appeared she started to, with what she knows of or what she is
25 involved in and she refused stating that she would rather not visit Joshua if it meant
26 being a "rat".

27 ///

28 ///

1 **INTERROGATORY NO. 5:**

2 The search warrant related to the search appears to indicate you were carrying out
3 a criminal investigation for possible drug crimes. Why therefore did you not read Ms.
4 Mack any of her rights prior to questioning and having her searched by Defendant
5 Laurian?

6 **RESPONSE TO INTERROGATORY NO. 5:**

7 Mack was not part of the Search Warrant, and I did not execute the warrant on
8 Ms. Cates. The situation did not require that Ms. Mack be read her Miranda rights as she
9 had the right to leave at any time and to not answer any questions, which she was
10 informed of.

11 **INTERROGATORY NO. 6:**

12 What specific NDOC search procedures were you and Defendant Laurian following
13 in carrying out the strip search of Ms. Mack on the morning of February 19, 2017, at
14 HDSP?

15 **RESPONSE TO INTERROGATORY NO. 6:**

16 NDOC Administrative Regulations with reference to searches of visitors.

17 **INTERROGATORY NO. 7:**

18 Explain why you did not have Ms. Mack sign a separate consent to search form
19 specifically related to a strip search prior to having Defendant Laurian conduct the strip
20 search of Ms. Mack on the morning of February 19, 2017, at HDSP?

21 **RESPONSE TO INTERROGATORY NO. 7:**

22 It is not required to have her sign two consent forms (redundant) as she had
23 already signed the "Consent to Search" form, verbally expressed her consent to be "strip
24 searched" and was informed by two separate investigators that the search would be an
25 unclothed search for which she was consenting. Not to mention she insisted we search her
26 to "clear" her, stating she had nothing to hide.

27 ///

28 ///

1 **INTERROGATORY NO. 8:**

2 Explain why you did not ensure that two female officers were involved in
3 conducting the strip search of Ms. Mack prior to having Defendant Laurian conduct the
4 strip search of Ms. Mack on the morning of February 19, 2017, at HDSP?

5 **RESPONSE TO INTERROGATORY NO. 8:**

6 We only have one female investigator available assigned to the Office of the
7 Inspector General to conduct those searches, in addition it could prove to be more
8 intimidating having more than one person conduct the search leaving the subject to
9 potentially believe they cannot remove consent prior to or during the search.

10 **INTERROGATORY NO. 9:**

11 At what earliest point during the Incident would you claim that Ms. Mack was free
12 to up and leave HDSP on her own accord?

13 **RESPONSE TO INTERROGATORY NO. 9:**

14 When I approached Ms. Mack in the Administrative Building I informed her that
15 she was free to leave at any time, however prior to that I do not know if the officers who
16 escorted her from the gatehouse conveyed anything similar.

17 **INTERROGATORY NO. 10:**

18 With regards to the search of Ms. Mack on the morning of February 19, 2017, at
19 HDSP, was any contraband or other illegal items found that would require indefinite
20 suspension of her NDOC visiting privileges? If so, fully explain.

21 **RESPONSE TO INTERROGATORY NO. 10:**

22 Nothing was discovered on Ms. Mack, but many other reasons can prohibit her
23 from visiting.

24 **INTERROGATORY NO. 11:**

25 During the search of approved NDOC visitors, if no contraband or any other illegal
26 items are found, aren't they routinely allowed to proceed with their visits? If not, explain.

27 ///

28 ///

1 **RESPONSE TO INTERROGATORY NO. 11:**

2 Routinely yes, however, this situation was not routine with regard to processing
3 visitors.

4 **INTERROGATORY NO. 12:**

5 If no contraband or any other illegal items were discovered during the search of
6 Ms. Mack, why wasn't she allowed to visit on February 19, 2017, and to retain her
7 visiting privileges the same as other NDOC visitors upon whom no contraband or other
8 illegal items were discovered?

9 **RESPONSE TO INTERROGATORY NO. 12:**

10 No illegal items were found on Ms. Mack, however, the conspiracy alone, her
11 admittance to paying a \$300 bill for Joshua which was believed to be the financing for the
12 drugs to be introduced by Ms. Cates, and her knowledge of Joshua's activities is enough
13 for suspension. In addition, recent confidential information/ evidence has been discovered
14 involving Ms. Mack and Joshua that would in fact indefinitely revoke her visiting
15 privileged if not permanently.

16 **INTERROGATORY NO. 13:**

17 State the exact reason for the indefinite suspension of Ms. Mack's NDOC visiting
18 privileges as related to the Incident.

19 **RESPONSE TO INTERROGATORY NO. 13:**

20 I was not informed of the exact reason.

21 **INTERROGATORY NO. 14:**

22 To your knowledge, did you or any other NDOC official ever clearly explain to Ms.
23 Mack (1) the exact reason for the indefinite suspension of her NDOC visiting privileges,
24 (2) the circumstances under which the indefinite suspension would be reconsidered, and
25 (3) instructions for appealing the indefinite suspension? If so, explain how in full detail. If
26 not, explain why not in full detail.

27 ///

28 ///

1 **RESPONSE TO INTERROGATORY NO. 14:**

2 Objection, this interrogatory is actually three (3) distinct interrogatories. To the
3 extent that this interrogatory has three (3) distinct subparts, they shall each be counted
4 as one (1) single interrogatory for purposes of the total number of interrogatories
5 pursuant to Federal Rules of Civil Procedure (FRCP) 33(a)(1).

6 Notwithstanding and without waiving said objection, Defendant hereby answers: I
7 did not inform Ms. Mack and I do not know if anyone else informed her.

8 **INTERROGATORY NO. 15:**

9 Give the full name, title, role, and current or last known home, business, and
10 employment location of each and every person involved in the search of Ms. Mack at
11 HDSP on the morning of February 19, 2017 and specify as to whether any of the
12 individuals remain employed with NDOC or the Nevada Inspector General's Office.

13 **RESPONSE TO INTERROGATORY NO. 15:**

14 Objection, this interrogatory is calling for personal information. Pursuant to
15 Nevada Administrative Code (NAC) 384.718, to the extent home addresses, roles, and
16 employment locations are confidential, they will not be provided.

17 Notwithstanding and without waiving said objection, Defendant hereby answers:
18 Arthur Emling, Criminal Investigator, 3955 W. Russell Rd. Las Vegas, NV 89118 (Still
19 Employed). Mayra Laurian, Criminal Investigator, 3955 W. Russell Rd. Las Vegas, NV
20 89118 (Still Employed).

21 **INTERROGATORY NO. 16:**

22 Give the full name, title, role, and current or last known home, business, and
23 employment location of each and every person involved in the indefinite suspension of
24 Ms. Mack' NDOC visiting privileges stemming from the Incident and specify as to
25 whether any of the individuals remain employed with NDOC or the Nevada Inspector
26 General's Office.

27 ///

28 ///

1 **RESPONSE TO INTERROGATORY NO. 16:**

2 Objection, this interrogatory is calling for personal information. Pursuant to
3 Nevada Administrative Code (NAC) 384.718, to the extent home addresses, roles, and
4 employment locations are confidential, they will not be provided.

5 Notwithstanding and without waiving said objection, Defendant hereby answers: I
6 am not aware of who all was involved in the indefinite suspension of Ms. Cates visiting
7 privileges.

8 **INTERROGATORY NO. 17:**

9 What NDOC rule infraction or crime do you know Ms. Mack to have committed to
10 justify the indefinite suspension of her NDOC visiting privileges?

11 **RESPONSE TO INTERROGATORY NO. 17:**

12 NRS 199.480 Conspiracy criminal charge. Charges can still be filed as it is still
13 with the statute of limitations under a Criminal Investigation in addition to another
14 charge to remain confidential as the investigation is ongoing. Just because criminal
15 charges have yet to be filed does not mean she retains the visiting privilege.

16 **INTERROGATORY NO. 18:**

17 What NDOC rule infraction or crime do you know Ms. Mack to have committed to
18 justify the *continuing* indefinite suspension of her NDOC visiting privileges?

19 **RESPONSE TO INTERROGATORY NO. 18:**

20 NRS 199.480 Conspiracy criminal charge. Charges can still be filed as it is still
21 with the statute of limitations under a Criminal Investigation in addition to another
22 charge to remain confidential as the investigation is ongoing. Just because criminal
23 charges have yet to be filed does not mean she retains the visiting privilege.

24 **INTERROGATORY NO. 19:**

25 Fully explain why Ms. Mack's NDOC visiting privileges have not been reinstated.

26 **RESPONSE TO INTERROGATORY NO. 19:**

27 It is not within my authority to reinstate Ms. Mack's visiting privileges.

28 ///

1 **INTERROGATORY NO. 20:**

2 The search warrant and investigation at issue in the Incident appears to apply only
3 to Tina Cates. Therefore, fully explain why Sonjia Mack's visiting privileges were
4 suspended indefinitely stemming from the Incident when she was not a subject of the
5 investigation, was not implicated in the search warrant, had done nothing to violate
6 prison visiting rules, and nothing illegal was found during your search of her person.

7 **RESPONSE TO INTERROGATORY NO. 20:**

8 Objection, this interrogatory assumes facts. The statements "she was not a subject
9 of the investigation," "was not implicated in the search warrant," "had done nothing to
10 violate prison visiting rules," and "nothing illegal was found during search of her person"
11 are all alleged statements made by Opposing Counsel. As these are not interrogatories,
12 but rather attempts to testify through pleading, they will not be considered when
13 answering. Objection, this interrogatory is duplicative. The same information is being
14 request in Interrogatory No. 19.

15 Notwithstanding and without waiving said objections, Defendant hereby answers
16 *specifically why Sonjia Mack's visiting privileges were suspended indefinitely*. Please see
17 Response to Interrogatory Nos. 17, 18, and 19.

18 **INTERROGATORY NO. 21:**

19 What NDOC rule infraction or crime do you know Tina Cates to have committed to
20 justify the indefinite suspension of her NDOC visiting privileges?

21 **RESPONSE TO INTERROGATORY NO. 21:**

22 NRS 212.160 Attempt to furnish a Controlled Substance to a State Prisoner and
23 NRS 199.480 Conspiracy. Charges can still be filed as it is still with the statute of
24 limitations under a Criminal Investigation.

25 **INTERROGATORY NO. 22:**

26 What NDOC rule infraction or crime do you know Tina Cates to have committed to
27 justify the *continuing* indefinite suspension of her NDOC visiting privileges?

28 ///

1 **RESPONSE TO INTERROGATORY NO. 22:**

2 NRS 212.160 Attempt to furnish a Controlled Substance to a State Prisoner and
3 NRS 199.480 Conspiracy. Charges can still be filed as it is still with the statute of
4 limitations under a Criminal Investigation.

5 **INTERROGATORY NO. 23:**

6 Fully explain why Tina Cates' NDOC visiting privileges have not been reinstated.

7 **RESPONSE TO INTERROGATORY NO. 23:**

8 It is not within my authority to reinstate Ms. Cates visiting privileges.

9 **INTERROGATORY NO. 24:**

10 Other than the fact that she just happened to be traveling with Tina Cates to
11 HDSP on the morning of February 19, 2017, explain how Sonjia Mack became involved
12 with any drug investigation related to the Incident.

13 **RESPONSE TO INTERROGATORY NO. 24:**

14 Objection, this interrogatory exceeds the number of interrogatories permitted.
15 Pursuant to FRCP 33(a)(1), only twenty-five (25) interrogatories are permitted per party
16 *including subparts*. As this interrogatory would actually be number 26, Defendant is not
17 required to respond.

18 **INTERROGATORY NO. 25:**

19 Do you claim to have fully complied with the provisions of AR 422 in having Ms.
20 Mack strip searched by Defendant Laurian at HDSP on the morning of February 19,
21 2017?

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 RESPONSE TO INTERROGATORY NO. 25:

2 Objection, this interrogatory exceeds the number of interrogatories permitted.
3 Pursuant to FRCP 33(a)(1), only twenty-five (25) interrogatories are permitted per party
4 *including subparts*. As this interrogatory would actually be number 27, Defendant is not
5 required to respond.

6 DATED this 6th day of November, 2018.

7 ADAM PAUL LAXALT
8 Attorney General

9 By: /s/ Simba Muzorewa
10 Simba Muzorewa (Bar No. 14097)
11 Deputy Attorney General
12 On Behalf of:
13 HENRY H. KIM (Bar No. 14390)
14 Deputy Attorney General

15 Attorneys for Defendants
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION OF ARTHUR EMLING

The undersigned is a Defendant in the civil rights action *Mack v. Williams, et al.*
Case No. 2:18-cv-799-APG-VCF.

The undersigned has read the applicable answers to Plaintiffs Request for
Interrogatories and is familiar with its contents. The statements contained therein are
true and correct to the best of the undersigned's knowledge, information and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

DATED this 15th day of OCTOBER, 2018.


ARTHUR EMLING

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on November 6, 2018, I served the foregoing **DEFENDANT EMLING'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Travis N. Barrick, Esq.
Gallian Welker & Beckstrom, LC
540 East St. Louis Avenue
Las Vegas, Nevada 89104
Attorneys for Plaintiff

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

EXHIBIT 4

DEFENDANT LAURIAN'S RESPONSES TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES

EXHIBIT 4

ADAM PAUL LAXALT
Nevada Attorney General
HENRY H. KIM (Bar No. 14390)
Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
Telephone: (702) 486-3095
Facsimile: (702) 486-3773
E-Mail: hkim@ag.nv.gov

*Attorneys for Defendants
Mayra Laurian, James Dzurenda,
Brian Williams, and Arthur Emling*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SONJIA MACK,
Plaintiff,

vs.

BRIAN E. WILLIAMS, Sr., et al.,
Defendants.

Case No. 2:18-cv-799-APG-VCF

**DEFENDANT LAURIAN'S RESPONSES
TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

Defendant, Mayra Laurian, by and through counsel, Adam Paul Laxalt, Nevada Attorney General, and Henry H. Kim, Deputy Attorney General, hereby submits these Responses to Plaintiff's First Set of Interrogatories.

I. RESERVATION OF RIGHTS

1. Defendants are bound to comply with statutes, regulations, and protocols governing the dissemination of confidential information pertaining to prison administration. In preparing these responses, Defendants may not yet have discovered all such bases of confidentiality upon which to interpose an objection to a discovery request presented herein. Accordingly, Defendants reserve the right to assert additional bases of confidentiality at a later time, when their applicability to the discovery request is realized;

///

///

2. Defendants have not fully completed their investigation of the facts related to this case, have not completed this discovery, or completed preparation for trial. All responses contained herein are based solely upon such information and documentation as are presently available to, and physically known to, Defendants. As such, these answering Defendants disclose *only* that information or those documents that they presently have or are authorized to access. These responses are hereby given with the understanding that Defendants reserve the right to revise or amend them as facts or documents become subsequently known. It is anticipated that further discovery, investigation, research, and analysis will supply additional facts and documents, in addition to known facts and documents, as well as may establish entirely new factual conclusions and legal contentions, all of which may lead to additions to, changes in, or variations from, the responses below set forth;

3. For documents identified and produced herein, Defendants are required only to gather, review, and produce these documents for Plaintiff's inspection. Plaintiff, as the requesting party, bears the financial burden of duplicating any documents he inspects, for his own use for this litigation. Thus, Plaintiff will be required to bear the cost of making copies of these documents for his own use in this litigation, and Defendants object to paying for these copying costs.

II. GENERAL OBJECTIONS

1. Each response given to each interrogatory is subject to all objections including, but not limited to, privilege, relevancy, authenticity, and admissibility, which would require exclusion of the evidence if it were offered in Court, all of which objections and grounds are hereby reserved.

2. Defendant objects to these Interrogatories to the extent that each seeks information which is confidential or privileged from disclosure pursuant to Nevada Department of Corrections (NDOC) Administrative Regulations (AR), including but not limited to AR 568 and AR 569.

///

1 3. Defendant objects to these Interrogatories to the extent each is overly broad
2 or unduly burdensome.

3 4. Defendant objects to these Interrogatories to the extent that the burden or
4 expense of responding to such Interrogatories outweigh the benefit of such
5 Interrogatories.

6 5. Defendant objects to these Interrogatories to the extent that each is neither
7 relevant to the subject matter of the pending action nor appear reasonably calculated to
8 lead to the discovery of admissible evidence.

9 6. By responding to these Interrogatories, Defendant does not in any way adopt
10 Plaintiff's purported definitions of words and phrases contained in Plaintiff's requests.
11 Defendant objects to those definitions to the extent they are inconsistent with the
12 ordinary and customary meaning of such words and phrases. Similarly, Defendant objects
13 to Plaintiff's purported definitions to the extent they attempt to impose on Defendant any
14 obligation broader than, or inconsistent with, applicable discovery rules or common law.

15 7. Defendant does not hereby admit, adopt or acquiesce in any factual or legal
16 contention, presumption, assertion or characterization contained in these Interrogatories.

17 8. Defendant objects to these Interrogatories to the extent they purport to
18 impose obligations beyond those imposed by the Federal Rules of Civil Procedure and the
19 Local Rules of this Court.

20 9. Defendant objects to these Interrogatories to the extent they are
21 unreasonably cumulative or duplicative, vague, ambiguous, overly broad, unduly
22 burdensome, or do not specify the information sought with sufficient particularity.

23 10. Defendant submits these responses without conceding the relevancy or
24 materiality of the subject matter of any Interrogatory and without prejudice to
25 Defendant's right to object to further discovery or to object to the admissibility of any
26 answer at the time of hearing or trial.

27 11. Defendant reserves his right to amend or supplement these answers and
28 objections.

III. RESPONSES

What were the actual circumstances that brought about the investigation of Ms. Mack for suspicion of bringing drugs or contraband into HDSP?

Unknown, I was not involved with the investigation.

If there was sufficient reason to believe that Ms. Mack had been bringing, or attempting to bring, drugs or contraband into HDSP, why were her visiting privileges not suspended or terminated prior to the morning of February 19, 2017?

Unknown, I was not involved with the investigation.

Fully describe the manner and circumstances in which you and your coworker, Arthur Emling, Jr., approached Ms. Mack and her traveling companion, Tina Cates, on the morning of February 19, 2017, at HDSP with regards to searching them.

Objection, this interrogatory is vague. It is unclear what is meant by "manner and circumstances" and "approached" as written.

/ / /

1 **INTERROGATORY NO. 4:**

2 Did you in fact question Ms. Mack about her suspected involvement in the
3 commission of drug crimes on the morning of February 19, 2017, at HDSP? If so, detail
4 the questions you asked her along with her responses.

5 **RESPONSE TO INTERROGATORY NO. 4:**

6 Objection, this interrogatory is also a request for production of documents. To the
7 extent that this interrogatory is asking for a list of questions, they will not be provided
8 until requested formally in a request for production of documents.

9 Notwithstanding and without waiving said objection, Defendant hereby answers: I
10 did not question Sonjia Mack.

11 **INTERROGATORY NO. 5:**

12 The search warrant related to the search appears to indicate you were carrying out
13 a criminal investigation for possible drug crimes. Why therefore did you not read Ms.
14 Mack any of her rights prior to questioning and/or having strip searching her?

15 **RESPONSE TO INTERROGATORY NO. 5:**

16 Sonjia Mack willingly consented to the search and was never detained.

17 **INTERROGATORY NO. 6:**

18 What specific NDOC search procedures did you employ in conducting the strip
19 search of Ms. Mack on the morning of February 19, 2017, at HDSP?

20 **RESPONSE TO INTERROGATORY NO. 6:**

21 NDOC Administrative Regulation 422.

22 **INTERROGATORY NO. 7:**

23 Explain why you did not have Ms. Mack sign a separate consent to search form
24 specifically related to a strip search prior to conducting a strip search of Ms. Mack on the
25 morning of February 19, 2017, at HDSP?

26 **RESPONSE TO INTERROGATORY NO. 7:**

27 Sonjia Mack had already signed the "Consent to Search" form, had verbally
28 consented to the "strip search" and had the ability to retract consent at any time.

1 **INTERROGATORY NO. 8:**

2 Explain why you did not ensure that at least one other female officer was involved
3 in conducting the strip search of Ms. Mack prior to strip searching Ms. Mack on the
4 morning of February 19, 2017, at HDSP?

5 **RESPONSE TO INTERROGATORY NO. 8:**

6 I am the only female Investigator assigned to the Office of the Inspector General
7 (Excluding the Inspector General herself). Sonjia Mack did not object to only one female
8 officer conducting the search, prior to the strip search beginning nor did she retract
9 consent once the strip search began.

10 **INTERROGATORY NO. 9:**

11 At what earliest point during the Incident would you claim that Ms. Mack was free
12 to up and leave HDSP on her own accord?

13 **RESPONSE TO INTERROGATORY NO. 9:**

14 Sonjia Mack was never in custody and was free to leave at any time.

15 **INTERROGATORY NO. 10:**

16 With regards to the search of Ms. Mack on the morning of February 19, 2017, at
17 HDSP, was any contraband or other illegal items found that would require indefinite
18 suspension of her NDOC visiting privileges? If so, fully explain.

19 **RESPONSE TO INTERROGATORY NO. 10:**

20 Contraband was not found on Sonjia Mack.

21 **INTERROGATORY NO. 11:**

22 During the search of approved NDOC visitors, if no contraband or any other illegal
23 items are found, aren't they routinely allowed to proceed with their visits? If not, explain.

24 **RESPONSE TO INTERROGATORY NO. 11:**

25 The search on Sonjia Mack was not routine.

26 **INTERROGATORY NO. 12:**

27 If no contraband or any other illegal items were discovered during the search of
28 Ms. Mack, why wasn't she allowed to visit on February 19, 2017, and to retain her

1 visiting privileges the same as other NDOC visitors upon whom no contraband or other
2 illegal items were discovered?

3 **RESPONSE TO INTERROGATORY NO. 12:**

4 I do not determine visiting privileges.

5 **INTERROGATORY NO. 13:**

6 State the exact reason for the indefinite suspension of Ms. Mack's NDOC visiting
7 privileges as related to the Incident.

8 **RESPONSE TO INTERROGATORY NO. 13:**

9 I do not determine visiting privileges.

10 **INTERROGATORY NO. 14:**

11 To your knowledge, did you or any other NDOC official ever clearly explain to Ms.
12 Mack (1) the exact reason for the indefinite suspension of her NDOC visiting privileges,
13 (2) the circumstances under which the indefinite suspension would be reconsidered, and
14 (3) instructions for appealing the indefinite suspension? If so, explain how in full detail. If
15 not, explain why not in full detail.

16 **RESPONSE TO INTERROGATORY NO. 14:**

17 Objection, this interrogatory is actually three (3) distinct interrogatories. To the
18 extent that this interrogatory has three (3) distinct subparts, they shall each be counted
19 as one (1) single interrogatory for purposes of the total number of interrogatories
20 pursuant to Federal Rules of Civil Procedure (FRCP) 33(a)(1).

21 Notwithstanding and without waiving said objection, Defendant hereby answers: I
22 did not inform Sonjia Mack about 1, 2, and/or 3 as I do not determine visitation
23 suspensions. It is unknown to me if anyone else did or did not clearly explain to her 1, 2
24 and/or 3.

25 **INTERROGATORY NO. 15:**

26 Give the full name, title, role, and current or last known home, business, and
27 employment location of each and every person involved in the search of Ms. Mack at
28 HDSP on the morning of February 19, 2017 and specify as to whether any of the

1 individuals remain employed with NDOC or the Nevada Inspector General's Office.

2 **RESPONSE TO INTERROGATORY NO. 15:**

3 Objection, this interrogatory is calling for personal information. Pursuant to
4 Nevada Administrative Code (NAC) 384.718, to the extent home addresses, roles, and
5 employment locations are confidential, they will not be provided.

6 Notwithstanding and without waiving said objection, Defendant hereby answers:
7 Mayra Laurian, Criminal Investigator, still employed, 3955 W. Russell Road Las Vegas
8 NV 89118 and Arthur Emling, Criminal Investigator, still employed, 3955 W. Russell
9 Road Las Vegas NV 89118.

10 **INTERROGATORY NO. 16:**

11 Give the full name, title, role, and current or last known home, business, and
12 employment location of each and every person involved in the indefinite suspension of
13 Ms. Mack' NDOC visiting privileges stemming from the Incident and specify as to
14 whether any of the individuals remain employed with NDOC or the Nevada Inspector
15 General's Office.

16 **RESPONSE TO INTERROGATORY NO. 16:**

17 Objection, this interrogatory is calling for personal information. Pursuant to
18 Nevada Administrative Code (NAC) 384.718, to the extent home addresses, roles, and
19 employment locations are confidential, they will not be provided.

20 Notwithstanding and without waiving said objection, Defendant hereby answers: I
21 am unaware of the person(s) involved in the indefinite suspension of Sonjia Mack.

22 **INTERROGATORY NO. 17:**

23 What NDOC rule infraction or crime do you know Ms. Mack to have committed to
24 justify the indefinite suspension of her NDOC visiting privileges?

25 **RESPONSE TO INTERROGATORY NO. 17:**

26 Unknown as this case is assigned to another Investigator and I do not have the
27 authority to suspend visiting privileges.

28 ///

1 **INTERROGATORY NO. 18:**

2 What NDOC rule infraction or crime do you know Ms. Mack to have committed to
3 justify the continuing indefinite suspension of her NDOC visiting privileges?

4 **RESPONSE TO INTERROGATORY NO. 18:**

5 Unknown as this case is assigned to another Investigator and I do not have the
6 authority to suspend visiting privileges.

7 **INTERROGATORY NO. 19:**

8 Fully explain why Ms. Mack's NDOC visiting privileges have not been reinstated.

9 **RESPONSE TO INTERROGATORY NO. 19:**

10 Unknown as I do not have the authority to reinstate visiting privileges.

11 **INTERROGATORY NO. 20:**

12 The search warrant and investigation at issue in the Incident appears to apply only
13 to Tina Cates. Therefore, fully explain why Sonjia Mack's visiting privileges were
14 suspended indefinitely stemming from the Incident when she was not a subject of the
15 investigation, was not implicated in the search warrant, had done nothing to violate
16 prison visiting rules, and nothing illegal was found during your search of her person.

17 **RESPONSE TO INTERROGATORY NO. 20:**

18 Objection, this interrogatory assumes facts. The statements "she was not a subject
19 of the investigation," "was not implicated in the search warrant," "had done nothing to
20 violate prison visiting rules," and "nothing illegal was found during search of her person"
21 are all alleged statements made by Opposing Counsel. As these are not interrogatories,
22 but rather attempts to testify through pleading, they will not be considered when
23 answering. Objection, this interrogatory is duplicative. The same information is being
24 request in Interrogatory No. 19.

25 Notwithstanding and without waiving said objections, Defendant hereby answers
26 *specifically why Sonjia Mack's visiting privileges were suspended indefinitely:* Unknown
27 as I do not have the authority to reinstate visiting privileges.

28 ///

1 **INTERROGATORY NO. 21:**

2 What NDOC rule infraction or crime do you know Tina Cates to have committed to
3 justify the indefinite suspension of her NDOC visiting privileges?

4 **RESPONSE TO INTERROGATORY NO. 21:**

5 NRS 212.160 Attempt to furnish a controlled substance to a state prisoner and
6 NRS 199.480 Conspiracy to commit a crime.

7 **INTERROGATORY NO. 22:**

8 What NDOC rule infraction or crime do you know Tina Cates to have committed to
9 justify the *continuing* indefinite suspension of her NDOC visiting privileges?

10 **RESPONSE TO INTERROGATORY NO. 22:**

11 NRS 212.160 Attempt to furnish a controlled substance to a state prisoner and
12 NRS 199.480 Conspiracy to commit a crime.

13 **INTERROGATORY NO. 23:**

14 Fully explain why Tina Cates' NDOC visiting privileges have not been reinstated.

15 **RESPONSE TO INTERROGATORY NO. 23:**

16 Unknown as I do not have the authority to reinstate visiting privileges.

17 **INTERROGATORY NO. 24:**

18 Other than the fact that she just happened to be traveling with Tina Cates to
19 HDSP on the morning of February 19, 2017, explain how Sonjia Mack became involved
20 with any drug investigation related to the Incident.

21 **RESPONSE TO INTERROGATORY NO. 24:**

22 Objection, this interrogatory exceeds the number of interrogatories permitted.
23 Pursuant to FRCP 33(a)(1), only twenty-five (25) interrogatories are permitted per party
24 *including subparts*. As this interrogatory would actually be number 26, Defendant is not
25 required to respond.

26 **INTERROGATORY NO. 25:**

27 Do you claim to have fully complied with the provisions of AR 422 in strip
28 searching Ms. Mack strip at HDSP on the morning of February 19, 2017?

1 RESPONSE TO INTERROGATORY NO. 25:

2 Objection, this interrogatory exceeds the number of interrogatories permitted.
3 Pursuant to FRCP 33(a)(1), only twenty-five (25) interrogatories are permitted per party
4 *including subparts*. As this interrogatory would actually be number 27, Defendant is not
5 required to respond.

6 DATED this 6th day of November, 2018.

7 ADAM PAUL LAXALT
8 Attorney General

9 By: /s/ Simba Muzorewa
10 Simba Muzorewa (Bar No. 14097)
11 Deputy Attorney General
12 On Behalf of:
13 HENRY H. KIM (Bar No. 14390)
14 Deputy Attorney General

15 *Attorneys for Defendants*

VERIFICATION OF MAYRA LAURIAN

The undersigned is a Defendant in the civil rights action *Mack v. Williams, et al.*
Case No. 2:18-cv-799-APG-VCF.

The undersigned has read the applicable answers to Plaintiff's Request for
Interrogatories and is familiar with its contents. The statements contained therein are
true and correct to the best of the undersigned's knowledge, information and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

DATED this 16 day of October, 2018.



MAYRA LAURIAN

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on November 6, 2018, I served the foregoing **DEFENDANT LAURIAN'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Travis N. Barrick, Esq.
Gallian Welker & Beckstrom, LC
540 East St. Louis Avenue
Las Vegas, Nevada 89104
Attorneys for Plaintiff

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

EXHIBIT 5

SEARCH AND SEIZURE WARRANT

EXHIBIT 5

SEARCH AND SEIZURE WARRANT

STATE OF NEVADA

COUNTY OF CLARK

} ss:
}

TO: ANY PEACE OFFICER

Proof by Affidavit having been made before me by ARTHUR EMLING JR, said Affidavit incorporated herein by reference, that there is probable cause to believe that certain physical evidence hereinafter described will be found at the following described premises and or locations, to wit:

I. DESCRIPTION OF PERSON AND PLACE TO BE SEARCHED

A person named Tina Cates; described as an Adult Female, Caucasian, Asian, or Hispanic descent, approximately 5'7" in height, 130 pounds in weight, brown hair and brown eyes. Her date of birth is 06/29/1982 with an assigned Social Security Number of [REDACTED]

Also to be searched are any vehicles used and registered by Cates to transport herself to High Desert State Prison located at 22010 Cold Creek Rd. Indian Springs, NV 89070. Vehicles currently registered under Cates name are; Four Door BMW W/ License Plate [REDACTED] and/or a Two Door Volkswagen with License Plate [REDACTED]

II. DESCRIPTION OF ITEMS TO BE SEIZED

A. Any and all Illegal Controlled Substances/Narcotics to include but not limited to Methamphetamines, Heroin, Cocaine, and etc.

I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the Affidavit attached hereto there are sufficient grounds for issuance of the Search Warrant.

You are hereby commanded to search forthwith, serving this warrant between sunrise and sunset (7am-7pm), and if the property be there to seize it, prepare a written inventory of the property seized and make a return for me within ten days.

Dated this 19th day of February, 2017


JUDGE REBECCA P. KERN

CATES 1080: DEF DISCL - 003