

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAWN WOODWARD,

Plaintiff,

v.

DECISION AND ORDER  
15-CV-246-A

CHAUTAUQUA COUNTY, NEW YORK, and any of its agents who may have been involved,  
CHAUTAUQUA COUNTY SHERIFF'S DEPARTMENT, and any of its agents who may have been involved,  
JOSEPH A. GERACE, Individually and as Chautauqua County Sheriff,  
JS HOVER and LT. NELSON, Chautauqua County Sheriff's Deputies, Individually and as Chautauqua County Sheriff's Deputies,  
NEW YORK STATE POLICE, and any of its agents who may have been involved,  
JOSEPH A. D'AMICO, Individually and as New York State Police Superintendent,  
J.B. CRESANTI and DEREK J. RAICHEL and TROOPER DESTRO, New York State Police Troopers, Individually and as New York State Troopers,

Defendants.

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This action was referred to Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. § 636(b). On July 5, 2016, Magistrate Judge Roemer filed a Report and Recommendation (Dkt. No. 58), recommending that the defendants' motion to dismiss (Dkt. No. 35) be granted in part and denied in part. Specifically, Magistrate Judge Roemer recommends that the Complaint against the New York State Police be dismissed in its entirety for lack of jurisdiction, and that all claims against defendants D'Amico, Cresanti, Destro and Raichel in their official capacity be dismissed.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

**ORDERED**, pursuant to 28 U.S.C. § 636(b)(1), for the reasons set forth in Magistrate Judge Roemer's Report and Recommendation, defendants' motion to dismiss is granted in part and denied in part. The Complaint against the New York State Police is dismissed in its entirety for lack of jurisdiction, and all claims against defendants D'Amico, Cresanti, Destro and Raichel in their official capacities are dismissed. Because the Defendants' Answer does not contest service of process [62], Defendant's motion to dismiss is therefore otherwise denied. It is also

**ORDERED** that the parties shall abide by the schedule for further proceedings that has been entered by Magistrate Judge Roemer.

**IT IS SO ORDERED.**

*Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: August 25, 2016