IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

FRANK STEFFENSEN, Plaintiff, v. CITY OF FAIRBANKS, et al., Defendants.	Case No.4:09-cv-4 (RJB) ORDER ON PLAINTIFF'S MOTION FOR RECONSIDERATION AND REQUEST THAT COURT ACCEPT RESUBMITTED, SIGNED OPPOSITION TO MOTION TO DISMISS PURSUANT TO R. 11(a)

This matter comes before the court on plaintiff's Motion for Reconsideration and Request that Court Accept Resubmitted, Signed Opposition to Motion to Dismiss Pursuant to R. 11(a). Dkt. 109 and 110. The court has considered the relevant documents and the remainder of the file herein.

On January 5, 2010, the court issued an order, granting defendant Kasey Mayhew's Motion for Summary Judgment on the basis that Mr. Mayhew was entitled to qualified immunity. Dkt. 98. Even though the court did not have before it a response from plaintiff to Mr. Mayhew's Motion for Summary Judgment, the court construed all facts in the light most favorable to plaintiff, and addressed the issues on the merits.

On January 11, 2010, plaintiff filed documents in opposition to Mr. Mayhew's motion for summary judgment. Dkt. 102. On January 15, 2010, the court issued an order, (1) disregarding plaintiff's late filed opposition, and, (2) in the alternative, affirming on the merits, after reviewing plaintiff's opposition, the court's order granting Mr. Mayhew's motion for summary judgment. Dkt. 104.

On January 19, 2010, plaintiff filed a Request for Findings of Fact and Law on Judgment of

Dockets.Justia.com

Dismissal Dated 1/7/10. Dkt. 106. On January 25, 2010, the court denied that request, stating as follows:

> In both the January 5, 2010 and January 19, 2010 orders, the court carefully reviewed the record and construed all findings in the light most favorable to plaintiff. *U.S. v. Davis*, 932 F.2d 752 (9th Cir. 1991)(defendant had standing to assert that heroin seized from safe of friend's apartment impermissibly exceeded scope of probation search, but search did not exceed scope of probation condition) is not on point. The issue is this case is not whether the scope of the probation search exceeded that authorized by Ms. Titus' judgment and sentence, but whether Mr. Mayhew, who relied on information in the computer system, was entitled to qualified immunity. The record, even when all facts are construed in the light most favorable to plaintiff, demonstrates that he was. Plaintiff's motion, requesting that the court enter further findings on factual and legal issues, should be denied.

Dkt. 108, at 2.

On January 22, 2010, the court received two identical documents from plaintiff, captioned Motion for Reconsideration and Request that Court Accept Resubmitted, Signed Opposition to Motion to Dismiss Pursuant to R. 11(a). Dkt. 109 and 110. Plaintiff contends that he timely filed opposition to Mr. Mayhew's Motion for Summary Judgment, but that the court's Clerk returned the document to him because he did not sign it. Plaintiff contends that he then resubmitted the opposition, which was docketed as Dkt. 102. Plaintiff requests that the court consider his opposition to the motion for summary judgment, rescind the court's January 5, 2010 order and January 7, 2010 judgment, and rule on the merits, in light of plaintiff's opposition to the motion.

In the court's January 5, 2010 order, the January 15, 2010 order, and the January 19, 2010 order, the court carefully and exhaustively reviewed the record, including plaintiff's opposition (Dkt. 102) to Mr. Mayhew's Motion for Summary Judgment. Plaintiff's arguments are without merit. Mr. Mayhew is entitled to summary judgment. This case has been concluded.

Therefore, it is hereby

ORDERED that plaintiff's motion(s) (Dkt. 109 and 110) is **GRANTED** insofar as the court has considered his opposition to Mr. Mayhew's Motion for Summary Judgment. The motion(s) (Dkt. 109 and 110) is **DENIED** in all other respects.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

DATED this 26th day of January, 2010.

Robert J. Bryan
United States District Judge