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NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Joshua Stauffer,

Plaintiff,

v.

Payson Police Department, et al.

Defendants.

No. CV-16-0472-PHX-SRB(JFM)
ORDER

On July 20, 2017, the Magistrate Judge issued his Amended Report and Recommendation re: Screening of Third Amended Complaint.

In his Report and Recommendation the Magistrate Judge advised the parties that they had fourteen days from the date of service of a copy of the Report and Recommendation within which to file specific written objections with the Court. The time to file such objections has expired and no objections to the Report and Recommendation have been filed.

The Court finds itself in agreement with the Report and Recommendation of the Magistrate Judge.

IT IS ORDERED adopting the Amended Report and Recommendation of the Magistrate Judge as the order of this Court. (Doc. 70)

IT IS FURTHER ORDERED that Defendant Macnereny be ordered to respond to the portion of Count 2 of Plaintiff’s Third Amended Complaint (Doc. 64) regarding the August 26, 2014 search of Plaintiff’s home.

IT IS FURTHER ORDERED that the remaining claims in Count 2, and the

1 claims in Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Plaintiff's Third Amended
2 Complaint (Doc. 64), and Defendants City of Payson, Wright, Figueroa, Evans, Engler,
3 Eldredge, Garvin, McDonough, Zimmerman, Macnereny, Davies, Bogatko, Johnson,
4 Scales, Geiser, Oortman, Jaegar, be **DISMISSED WITHOUT PREJUDICE** for failure
5 to adequately state a claim.

6 **IT IS FURTHER ORDERED** that service on Defendant Macnereny proceed by
7 entry of an order that provides as follows:

8 (1) The Clerk of the Court shall send Plaintiff a service packet including both
9 summons and request for waiver forms for said Defendants.

10 (2) Plaintiff shall complete and return the service packet to the Clerk of the Court
11 within 20 days of the date of the filing of this Order. The United States Marshal will not
12 provide service of process if Plaintiff fails to comply with this Order.

13 (3) The United States Marshal shall retain the Summons, a copy of such amended
14 complaint, and a copy of this Order for future use.

15 (4) The United States Marshal shall notify said Defendants of the commencement
16 of this action and request waiver of service of the summons pursuant to Rule 4(d) of the
17 Federal Rules of Civil Procedure. The notice to Defendants shall include a copy of this
18 Order. The Marshal shall file waivers of service of the summons or requests for waivers
19 that were returned as undeliverable as soon as they are received. If a waiver of service of
20 summons is not returned by Defendants within thirty days from the date the request for
21 waiver was sent by the Marshal, the Marshal shall:

22 (a) Personally serve copies of the Summons, such amended
23 Complaint and this Order upon Defendants pursuant to Rule 4(e)(2) of the Federal Rules
24 of Civil Procedure.

25 (b) Within ten days after personal service is effected, file the return
26 of service for the Defendants, along with evidence of the attempt to secure a waiver of
27 service of the summons and of the costs subsequently incurred in effecting service upon
28 the Defendants. The costs of service shall be enumerated on the return of service form

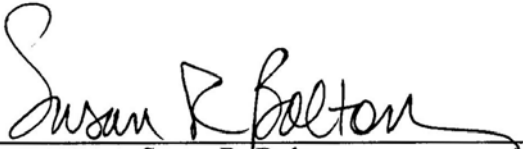
1 (USM-285) and shall include the costs incurred by the Marshal for photocopying
2 additional copies of the Summons, such amended complaint, or this Order and for
3 preparing new process receipt and return forms (USM-285), if required. Costs of service
4 will be taxed against the personally served Defendant pursuant to Rule 4(d)(2) and (5) of
5 the Federal Rules of Civil Procedure, unless otherwise ordered by the Court.

6 **(5) Defendants who agree to waive service of the Summons and such amended**
7 **complaint shall return signed waiver forms to the United State Marshal, and not to**
8 **Plaintiff.**

9 (6) Said Defendants shall answer such amended complaint or otherwise respond
10 by appropriate motion within the time provided by the applicable provisions of Rule
11 12(a) of the Federal Rules of Civil Procedure.

12 (7) Any answer or responsive pleading shall state the specific Defendant(s) by
13 name on whose behalf it is filed. The Court may strike any answer, responsive pleading,
14 or other motion or paper that does not identify the specific Defendant(s) by name on
15 whose behalf it is filed.

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17 Dated this 11th day of August, 2017.

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22 Susan R. Bolton
23 United States District Judge
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