

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

GEORGE MICHAEL BROOKS

PLAINTIFF

v.

Case No. 3:13-CV-03028

CITY OF BERRYVILLE; CITY OF BERRYVILLE
POLICE DEPARTMENT; and DETECTIVE
ROBERT BARTOS

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Currently before the Court is the Report and Recommendations (“R&R”) (Doc. 10) filed in this case on April 11, 2013 by the Honorable James R. Marschewski, Chief United States Magistrate Judge for the Western District of Arkansas. Also before the Court are Plaintiff’s Objections (Docs. 11, 12).

The Magistrate recommends that the instant matter be dismissed as frivolous or for failure to state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915(e)(2). The magistrate reasons that Plaintiff mainly wants his freedom, but that Plaintiff is barred from collaterally attacking his state court judgment of acquittal in this Court; no due process or equal protection claim was alleged, asserting that Plaintiff did not have recourse to attack his commitment through state court proceedings; and the *Younger* abstention doctrine restricts the Court from interfering in state court criminal proceedings.

While the Court does not disagree with the points made by the Magistrate, the Court nonetheless declines to adopt the Report and Recommendation, finding that the entire matter is not necessarily subject to dismissal at this pre-screening stage of litigation.

While Plaintiff cannot collaterally attack his judgment of acquittal and commitment in this

proceeding, he may validly bring claims that are unrelated to, and would not affect, the state court proceeding. *See, e.g., Coley v. Clinton*, 635 F.2d 1364, 1372 (8th Cir. 1980) (“The Younger restriction on federal court interference with ongoing state court proceedings closely related to the criminal law . . . does not apply to actions against state officials which are not part of such ongoing state court criminal proceedings.”). Construing Plaintiff’s pro se pleadings liberally, it appears that Plaintiff may have alleged facts sufficient to state claims unrelated to a collateral attack on his judgment and commitment, including a claim for excessive use of force.

Therefore, because any unrelated claims were not addressed by the Magistrate in the Report and Recommendation, the Court declines to adopt the Report and Recommendation and recommits this matter to the Magistrate for further analysis.

IT IS SO ORDERED this 24th day of April, 2013.

P. K. Holmes, III
P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE