

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

STACY ORLANDO JACKSON

PLAINTIFF

v.

Case No. 5:13-CV-05221

CIRCUIT JUDGE WILLIAM STOREY; SHERIFF
TIM HELDER; PROSECUTING ATTORNEY JOHN
THREET; BOBBY BOYD, Deputy Clerk; CAPTAIN
LIVERMORE; SERGEANT T. MUGGY, Washington
County Detention Center; DETECTIVE R. KNOTTS,
Fayetteville Police Department; SERGEANT ARNOLD,
Washington County Detention Center

DEFENDANTS

OPINION AND ORDER

Before the Court are the findings and recommendations (Doc. 14) by Chief United States Magistrate Judge James R. Marschewski. Also before the Court are Plaintiff Stacy Orlando Jackson's objections (Doc. 15).

The Magistrate recommends dismissal of this action on the grounds that the claims are frivolous, fail to state claims on which relief may be granted, and seek relief against defendants who are immune from suit. In his objections, Jackson concedes that Defendants Storey, Threet, and Boyd are immune from suit and asks the Court to dismiss them. Jackson then seeks to amend his complaint as to Defendants Sheriff Tim Helder, Captain Livermore, Detective Knotts, and Sergeant Arnold.

The Court finds that the Magistrate's report and recommendation should be adopted in part insofar as it recommends dismissal of Defendants Storey and Threet based on their immunity from suit. While the report does not specifically address Defendant Boyd, Jackson has agreed that Boyd should likewise be dismissed as immune from suit, and the Court finds that dismissal is appropriate, as Jackson appears to allege that Boyd was acting at the direction of Judge Storey. *Geitz v. Overall*,

62 Fed. Appx. 744, 746 (8th Cir. 2003) (unpublished) (court clerks have absolute immunity “for acts that may be seen as discretionary, or for acts taken at the direction of a judge or according to court rule”).

The Court declines to adopt, however, the report and recommendation to the extent that it recommends dismissal of the remaining Defendants. While the report quotes at length from *Baker v. McCollan*¹ and then concludes that “no claim is stated” by Jackson, the report is not clear as to which Defendants the quoted passage pertains. The report does not explain how the quoted passage justifies dismissal of all of the remaining defendants—Helder, Livermore, Arnold, and Knotts—who are not otherwise explicitly addressed in the report’s analysis. Especially in light of the fact that Jackson now requests permission to amend his complaint (the Court takes no stance in this opinion as to whether allowing amendment would be appropriate), the Court recommit this matter to the Magistrate for further analysis as to Defendants Helder, Livermore, Arnold, and Knotts, as well as consideration of Jackson’s pending request to amend his complaint. If the Magistrate does not recommend dismissal of all federal claims after such additional analysis, it is also requested that the Magistrate consider whether Jackson has stated a claim under state law for defamation and, if so, whether the claim may or should be considered by this Court pursuant to the Court’s ability to exercise supplemental jurisdiction over a state-law claim.

IT IS THEREFORE ORDERED that the report and recommendation of the Magistrate (Doc. 14) is ADOPTED IN PART as set forth above.

IT IS FURTHER ORDERED that Defendants Storey, Threet, and Boyd are DISMISSED WITH PREJUDICE from this action as immune from suit and as requested by Plaintiff.

IT IS FURTHER ORDERED that this matter be recommitted to the Magistrate for further

¹ 443 U.S. 137 (1979).

consideration and analysis of the claims against Defendants Helder, Livermore, Arnold, and Knotts and Plaintiff's defamation claim, as well as consideration of Plaintiff's pending request (Doc. 15) to amend his complaint.

IT IS SO ORDERED this 26th day of August, 2014.

P. K. Holmes, III

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