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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RYAN MORRISON,) Case No. CV 19-1961-JGB (JPR)
)
Plaintiff,) ORDER ACCEPTING FINDINGS AND
) RECOMMENDATIONS OF U.S.
v.) MAGISTRATE JUDGE
)
ALVARO RAMOS et al.,)
)
Defendants.)
)

The Court has reviewed de novo the records on file and Report and Recommendation of U.S. Magistrate Judge, which recommends that Defendants' summary-judgment motion be granted except as to the state-law claims, which should be dismissed without prejudice, and Plaintiff's summary-judgment motion be denied. See 28 U.S.C. § 636. On May 10, 2022, Plaintiff objected to portions of the R. & R.; Defendants didn't respond.

In 47 pages of objections, Plaintiff has included no record citations other than when quoting (without quotation marks) the R. & R., making it virtually impossible for the Court to assess his arguments. See Keenan v. Allan, 91 F.3d 1275, 1279 (9th Cir. 1996) (noting that district court need not "scour the record in search of a genuine issue of triable fact" (citation omitted));

1 Fed. R. Civ. P. 56(c)(3) (“[C]ourt need consider only the cited
2 materials[.]”). At any rate, he mostly reargues points made in
3 his summary-judgment motion, Opposition to Defendants’ motion,
4 and Reply, which the Magistrate Judge already considered and
5 appropriately rejected. Only a few warrant discussion.

6 Plaintiff doesn’t challenge the Magistrate Judge’s finding
7 that his malicious-prosecution claim fails or that his state-law
8 claims should be dismissed. Nor does he dispute that the
9 preliminary-hearing finding of probable cause precludes
10 relitigation of probable cause here. He instead insists that
11 probable cause is not a “total defense to false arrest and
12 imprisonment” claims. (Objs. at 14.) But as the Magistrate
13 Judge noted (see R. & R. at 12), the Ninth Circuit has repeatedly
14 held the opposite. See Yousefian v. City of Glendale, 779 F.3d
15 1010, 1014 (9th Cir. 2015) (“The absence of probable cause is a
16 necessary element of [a] § 1983 false arrest” claim); Hart v.
17 Parks, 450 F.3d 1059, 1069 (9th Cir. 2006) (“Because police had
18 probable cause to arrest him, [plaintiff’s] false arrest claim
19 necessarily fails.”); Cabrera v. City of Huntington Park, 159
20 F.3d 374, 380 (9th Cir. 1998) (per curiam) (“To prevail on his §
21 1983 claim for false arrest and imprisonment, [plaintiff] would
22 have to demonstrate that there was no probable cause to arrest
23 him.”).

24 Plaintiff claims, again, that Morrison “testified she never”
25 told arresting officers Mirzoyan and Ramos that Plaintiff
26 “contacted her in May 2016 and asked if he could move in with her
27 in [California] temporarily to attend school.” (Objs. at 3; see
28 also id. at 4-5, 7, 19, 21-23.) As the Magistrate Judge noted

1 (see R. & R. at 7 n.5, 25-26), however, that's not true, and
2 Plaintiff points to nothing in the record to the contrary.
3 Indeed, at the preliminary hearing, Morrison testified that after
4 Plaintiff called and "said he was coming out to California," she
5 "offered to let him stay with [her] for a couple of months."
6 (Pl.'s Statement Genuine Disputes, Ex. 2 at 9.) At the time, she
7 was living alone. (See id.) When Plaintiff arrived in
8 California, they leased a different residence together. (See id.
9 at 10; id., Ex. 3 at 42, 48; id., Ex. 12 at 20-21.)

10 At Plaintiff's criminal trial, Morrison was testifying about
11 that leased residence when she seemed to deny that he had told
12 her that he was moving in with her temporarily:

13 Q And you needed [Plaintiff] to cosign for the
14 apartment because he had good credit and you did
15 not.

16 A No. He -- he was moving in with me. We both had
17 to sign it.

18 Q Now, didn't [Plaintiff] tell you that he was moving
19 in with you temporarily to help you get on your
20 feet but then he was going to move out on his own?

21 A No. It was -- we signed a year's lease.

22 (Id., Ex. 3 at 47.) Contrary to Plaintiff's argument (see Objs.
23 at 3-4), this testimony wasn't in the context of what she told
24 Defendants leading up to Plaintiff's arrest; that came later (see
25 Pl.'s Statement Genuine Disputes, Ex. 3 at 65-68). She never
26 denied having told Defendants around the time of his arrest that
27 she had agreed to let Plaintiff move in with her temporarily (see
28 R. & R. at 7 n.5, 25-26); their evidence on that point therefore

1 remains undisputed (see Defs.' Mot. Summ. J., Ex. 8, Mirzoyan
2 Decl. ¶ 8; id., Ex. 2 at 2-3).¹

3 Next, Plaintiff challenges the Magistrate Judge's finding
4 that Ramos and Mirzoyan had to act fast because Morrison seemed
5 to be in harm's way. (See Objs. at 6-7.) He claims Morrison
6 went to the police station "only to drop off paperwork," not to
7 "report a crime or seek police action." (Objs. at 7; see id. at
8 25.) Thus, he argues, she didn't "fear[] for [her] safety."
9 (Id. at 7; see id. at 25 (claiming that Morrison "was not in fear
10 for her safety" because "[s]he was not [at the police station] to
11 make a report or seek police action").)

12 But the "paperwork" Morrison dropped off was a medical
13 report showing that she had suffered rib fractures the day she
14 called police and stating that she had "[ch]est pain after
15 assault." (Pl.'s Statement Undisputed Facts, Ex. 5 at 3.)
16 What's more, Mirzoyan declared that Morrison said she believed
17 Plaintiff's threats were credible and that she "feared for her
18 safety." (Defs.' Mot. Summ. J., Ex. 8, Mirzoyan Decl. ¶ 11; see
19 also Pl.'s Statement Genuine Disputes, Ex. 10 at 37 (Ramos
20 testifying that Morrison "expressed being . . . afraid").) And
21 she told them that Plaintiff had thrown items around the house,
22 including a 20-inch television, and struck her with a walker,
23 which was consistent with what responding officer Avila saw when
24

25 ¹ Plaintiff likewise claims that Ramos and Mirzoyan knew he
26 "paid rent and was on [the] lease" (Objs. at 37; see also id. at 8-
27 9, 32) and that Morrison told them that he "paid money towards
28 [the] apartment" (id. at 45), but he cites no evidence supporting
those claims. (See R. & R. at 25.) In any event, all that matters
is what Ramos and Mirzoyan believed at the time of his arrest, not
what they might have learned later.

1 she first entered the apartment. (See R. & R. at 13, 15-16
2 (citing record evidence).)² Indeed, Morrison later told Boylls
3 that she had “[f]ear[ed] that [Plaintiff] would be at her
4 residence” and therefore “responded to [the police station] and
5 spoke with” Ramos and Mirzoyan there. (Pl.’s Statement
6 Undisputed Facts, Ex. 25 at 2; see also R. & R. at 31.) She
7 reported that she “live[d] in constant fear” of Plaintiff (Pl.’s
8 Statement Undisputed Facts, Ex. 25 at 2) and requested a
9 restraining order (id., Ex. 2 at 89-90). Thus, Ramos and
10 Mirzoyan would have reasonably believed that Morrison was in
11 harm’s way and had to act quickly. (See R. & R. at 25.)

12 Plaintiff wrongly claims that “Avila testified nothing
13 stopped her from arresting Plaintiff,” and she could have
14 “fil[ed] an arrest report.” (Objs. at 21; see also id. at 24
15 (arguing that Avila had “opportunity” to arrest Plaintiff).) In
16 fact, Avila couldn’t arrest him because he was “already gone”
17 when she “took the investigative report.” (Pl.’s Statement
18 Genuine Disputes, Ex. 5 at 13; see Defs.’ Mot. Summ. J., Ex. 1 at
19 3-4 (investigative report noting that Avila and her partner
20 searched for but couldn’t find Plaintiff).)

21 Arguing that Mirzoyan and Ramos should have investigated
22 Morrison’s claims more before arresting him, Plaintiff for the
23 first time states that Morrison had falsely accused people

24
25 ² In his Objections, Plaintiff for the first time “den[ies]”
26 that Morrison “made these statements” to Mirzoyan and Ramos.
27 (Objs. at 20.) Never mind that he previously didn’t dispute those
28 facts (see Pl.’s Statement Genuine Disputes at 7-8 (noting that
they were “undisputed”)), he has pointed to no contradictory
evidence. (See Defs.’ Mot. Summ. J., Ex. 8, Mirzoyan Decl. ¶ 12
(Mirzoyan declaring what Morrison told them).)

1 before: she "has a long history of accusing people," "[m]ade many
2 false police reports," and "filed complaints against many other
3 people including judges, lawyers, medical doctors, psychologists,
4 school teachers and principles [sic] and family members and
5 more." (Objs. at 25-26.) Even if that's true, however, nothing
6 suggests that Defendants had reason to so suspect, and because of
7 Morrison's apparent injuries at Plaintiff's hands, they had to
8 act quickly. They had no immediate basis to doubt Morrison's
9 veracity, as the Magistrate Judge found. (See R. & R. at 16-17)

10 Plaintiff's next argument fares even worse: because Mirzoyan
11 allegedly testified that he entered the residence only to
12 investigate, he must have lied in his declaration about Morrison
13 giving him consent to enter to arrest Plaintiff. (See Objs. at
14 9.) As the Magistrate Judge noted (see R. & R. at 26 n.18),
15 Mirzoyan never testified that he entered the residence only to
16 investigate. But even if he did, that wouldn't mean that
17 Morrison didn't consent to their entry to arrest Plaintiff.
18 Indeed, she affirmatively told police that she wanted Plaintiff
19 arrested (see Defs.' Mot. Summ. J., Ex. 8, Mirzoyan Decl. ¶ 13;
20 see also id., Ex. 1 (investigative report noting that Morrison
21 told Avila that she "want[ed]" Plaintiff "prosecuted for th[e]
22 crime")), so when she brought them to the apartment and used her
23 key to open the door and let them in, the officers would have
24 reasonably inferred that she did so so that they could arrest
25 Plaintiff.

26 Ramos testified, Plaintiff asserts, "that there were no
27 facts known to hi[m] that suggested . . . Morrison had any
28 access, mutual use or control over the bedroom with Plaintiff."

1 (Objs. at 38.) But as with all his objections, he doesn't supply
2 supporting record citations, and the Court has found no such
3 testimony. Indeed, Morrison repeatedly referred to the apartment
4 as hers and told the officers that Plaintiff was supposed to stay
5 with her for a short time. (See Defs.' Mot. Summ. J., Ex. 8,
6 Mirzoyan Decl. ¶¶ 8, 11, 13; id., Ex. 2 at 2-3.) As the
7 Magistrate Judge correctly noted, no facts known to Ramos and
8 Mirzoyan suggested that Plaintiff had "exclusive control" over
9 the room. (See R. & R. at 29; see also id. at 24-25.)

10 Finally, as to qualified immunity, Plaintiff again discusses
11 United States v. Whitfield, 939 F.2d 1071, 1073, 1075 (D.C. Cir.
12 1991), stating that it's "nearly identical" to his case. (Objs.
13 at 43.) But as the Magistrate Judge found, no Supreme Court or
14 Ninth Circuit case as of November 2016 held that a parent's
15 consent "prevails (or doesn't prevail) over a present and
16 objecting adult child." (R. & R. at 28.) And even if Whitfield
17 is "nearly identical" (Objs. at 43), it certainly doesn't reflect
18 a "robust consensus" of persuasive authority, Dist. of Columbia
19 v. Wesby, 138 S. Ct. 577, 589-90 (2018) ("clearly established"
20 means "dictated by 'controlling authority'" or supported by
21 "robust consensus" of "persuasive authority" (citation omitted)).
22 (See R. & R. at 28-29 (summarizing cases disagreeing with
23 Whitfield)); see also In re D.C., 188 Cal. App. 4th 978, 987
24 (2010) (observing that Whitfield "does not reflect a clear
25 federal consensus"). Thus, the Magistrate Judge correctly found
26 that Mirzoyan and Ramos were entitled to qualified immunity on
27 Plaintiff's Fourth Amendment claim: they had no "fair and clear
28 warning of what the Constitution requires." City & Cnty. of S.F.

1 v. Sheehan, 575 U.S. 600, 617 (2015) (citation omitted).

2 The Court accepts the findings and recommendations of the
3 Magistrate Judge. It therefore is ORDERED that Defendants'
4 motion for summary judgment is GRANTED in part and Plaintiff's
5 summary-judgment motion is DENIED. Judgment is to be entered in
6 Defendants' favor, dismissing this action with prejudice as to
7 Plaintiff's federal claims and without prejudice as to his state-
8 law claims.

9
10 DATED: June 21, 2022



JESUS G. BERNAL
U.S. DISTRICT JUDGE