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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMERY GASPARD and YVONNE
HRINDICH,
Plaintiffs,
v.
CITY OF SAN BERNARDINO and
SAN BERNARDINO COUNTY,
Defendants.

Case No. 5:15-cv-01802-VBF-KES
Consolidated: 5:16-cv-02290-VBF-KES

ORDER
Overruling Plaintiffs' Objections and
Adopting the Apr. 2, 2019 R&R (Doc 169):
Ruling on City's Motion for S.J. (Doc 144)

Gaspard and Hrindich filed the Second Amended Complaint ("SAC") in the 2015 case (CM/ECF Document ("Doc") 67) on May 9, 2016.

By Order issued September 26, 2016 (2015 Doc 112), the previously assigned District Judge dismissed all claims in the SAC against the San Bernardino Individual Defendants, DEA Acting Administrator Chuck Rosenburg, and Ernest Lee Cartwright without prejudice for lack of prosecution. The United States Court of Appeals for the Ninth Circuit affirmed the September 26, 2016 Order by Order issued October 5, 2017 and Mandate issued February 9, 2018 in appeal number 17-56589 (2015 Docs 123 and 134).

On November 4, 2016, the prior District Judge issued an Order (2015 Doc

1 120) dismissing with prejudice all claims against the City of Ontario, Riverside
2 County, San Bernardino County, Sheriff John McMahon, the DEA Task Force, and
3 California Highway Patrol Commissioner Joseph A. Farrow. The November 4,
4 2016 Order (2015 Doc 120) also dismissed without prejudice the SAC's claims
5 against eleven law-enforcement officers.

6 By Order issued January 4, 2019 (Doc 148), this Court denied plaintiffs'
7 motion for leave to pursue an interlocutory appeal in both cases, but granted
8 plaintiffs' motion to consolidate the 2015 and 2016 cases.

9 Pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72, the Court has reviewed
10 the SAC (Doc 67); the City's summary-judgment motion (Doc 144) and Statement
11 of Undisputed Facts (Doc 145), plaintiffs' opposition brief, Statement of Genuine
12 Disputes of Material Fact, and declarations (Docs 153-155), the City's reply brief
13 (Doc 158), and plaintiff's later-submitted supplemental brief (Doc 163) and
14 declarations (Doc 164) opposing summary judgment. The Court has also reviewed
15 San Bernardino County's motion for judgment on the pleadings, plaintiffs'
16 opposition brief, and the County's reply brief (Doc 160); the other files herein, the
17 Reports and Recommendations ("R&Rs") of the United States Magistrate Judge
18 (Docs 162 and 169), and the objections filed by the plaintiffs (Doc 170).

19 Finding no error of law, fact, or logic in the R&Rs, the Court will overrule
20 plaintiffs' objections to the April 2, 2019 R&R, accept the Magistrate Judge's
21 findings and conclusions, and implement her recommendations with regard to the
22 SAC's claims against the City of San Bernardino.

23
24 ORDER

25 The April 2, 2019 Report & Recommendation [15-1802 #169] is ADOPTED:

- 26 ■ Plaintiffs' objection (**ED CV 15-1802 Doc #170**) is **OVERRULED**.
27 ■ The City of San Bernardino's January 17, 2019 motion for summary
28 judgment on the Second Amended Complaint [**ED CV 15-1802 Doc**

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#144] is GRANTED in part and DENIED in part as follows.

All of Hrindich’s claims in the SAC against the City of San Bernardino are dismissed with prejudice.

All of Gaspard’s claims in the SAC against the City of San Bernardino are dismissed with prejudice except his Americans With Disabilities Act claim and his 42 U.S.C. section 1983 claim related to the alleged unconstitutionally excessive use of force.

The Court will rule on the County of San Bernardino’s motion for judgment on the pleadings by separate Order.

The consolidated case remains open and referred to the United States Magistrate Judge for pre-trial matters.

IT IS SO ORDERED.

Dated: July 8, 2019



Hon. VALERIE BAKER FAIRBANK
UNITED STATES DISTRICT JUDGE