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OFFICER TINA STIRLING AND THE CITY OF CLOVIS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MICHAEL TATER-ALEXANDER,)
)
 Plaintiff,)
)
 vs.)
)
 LONNIE R. AMERJAN, individually and in)
 his official capacity;)
 CITY OF CLOVIS, a municipal corporation;)
 TINA STIRLING, individually and in her)
 official capacity;)
 COMMUNITY REGIONAL MEDICAL)
 CENTER, an entity of unknown form;)
 DR. THOMAS MANSFIELD, an individual;)
 MARY JO GREENE, an individual;)
 DOES 1 through 100, as entities of unknown)
 form and unknown capacities,)
)
 Defendants.)

CASE NO. 1:08-cv-00372 OWW SMS

**ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT ON BEHALF OF
CORPORAL LONNIE R. AMERJAN AND
OFFICER TINA STIRLING**

Date: January 10, 2011
Time: 10:00 a.m.
Courtroom: 3
The Honorable Oliver W. Wanger

The Motion of Defendants CLOVIS POLICE CORPORAL LONNIE R. AMERJAN and
CLOVIS POLICE OFFICER TINA STIRLING (herein after the "Officer Defendants") for summary
judgment came on regularly for hearing before this Court on January 10, 2011. Benjamin L. Ratliff of the
Law Offices of Benjamin L. Ratliff appeared as attorney for the Officer Defendants; Carey H. Johnson of
Stammer, McKnight, Barnum & Bailey, LLP, appeared on behalf of defendants Community Regional
Medical Center and Mary Jo Green; Daniel L. Wainwright of McCormick, Barstow, Sheppard, Wayte &

1 Carruth, LLP, appeared on behalf of defendant Dr. Thomas Mansfield; and Daniel Stearn of Bustamante,
2 O'Hara & Gagliasso, P.C., appeared as attorney for plaintiff Michael Tater-Alexander.

3 Prior to the issuance of the Memorandum Decisions Re Cross Motions for Summary Judgment
4 plaintiff voluntarily dismissed Defendant THE CITY OF CLOVIS from his Third Amended Complaint in
5 its entirety; voluntarily dismissed his Ninth Cause of Action for False Arrest against CORPORAL LONNIE
6 R. AMERJAN and OFFICER TINA STIRLING in its entirety; voluntarily dismissed his Tenth Cause of
7 Action for Assault against CORPORAL LONNIE R. AMERJAN in its entirety; and voluntarily dismissed
8 his Eleventh Cause of Action for Intentional Infliction of Emotional Distress against ALL DEFENDANTS
9 in its entirety.

10 After considering the moving and opposition papers, arguments of counsel, and all other matters
11 presented to the Court, IT IS HEREBY ORDERED as follows:

- 12 1) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
13 Third Cause of Action for First Amendment Violations because the Officer Defendants did not
14 violate Plaintiff's First Amendment rights, and even if they had violated those rights it would
15 not have been clear to a reasonable officer they were violating those rights. The Officer
16 Defendants are therefore entitled to qualified immunity from suit on the Third Cause of Action;
- 17 2) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
18 Fourth Cause of Action for Supervisor Liability based on the Conduct of Officer Stirling under
19 42 U.S.C § 1983 because no violation of plaintiff's First Amendment rights occurred, because
20 Plaintiff does not contest the absence of allegations or evidence to support his claims of
21 violations of the Fourth, Eighth, and Fourteenth Amendments, and because the Officer
22 Defendants have qualified immunity from suit on the Fourth Cause of Action;
- 23 3) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
24 Fifth Cause of Action for Violation of Civil Rights under 42 U.S.C § 1983 because no violation
25 of plaintiff's First Amendment rights occurred, because Plaintiff does not contest the lack of
26 allegations of evidence to support any Constitutional violation except the First Amendment, and
27 because Officer Defendants have qualified immunity from suit on the Fifth Cause of Action;

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1 4) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
2 Sixth Cause of Action for Unruh Act Violations because the Officer Defendants have qualified
3 immunity to suit on the Sixth Cause of Action because Plaintiff has not offered any evidence or
4 argument that call the Officer Defendants' use of due care into question on the subject date nor
5 their entitlement to qualified immunity;

6 5) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
7 Seventh Cause of Action for Violations of the Disabled Persons Act because there is no genuine
8 issue of material fact as to whether Officer Defendants violated the Disabled Persons Act.
9 Further, the Officer Defendants are entitled to qualified immunity from suit on the Seventh
10 Cause of Action because Plaintiff has not offered any evidence or argument that either call the
11 Officer Defendants' use of due care into question on the subject date or question their
12 entitlement to qualified immunity;

13 6) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
14 Twelfth Cause of Action for Violations of the Bane Act because it is undisputed that Plaintiff
15 has not stated sufficient facts to support an action under the Bane Act. Further, the Officer
16 Defendants have qualified immunity from suit on the Twelfth Cause of Action because Plaintiff
17 has not offered any evidence or argument that either call the Officer Defendants' use of due care
18 into question on the subject date or question their entitlement to qualified immunity;

19 7) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's
20 Thirteenth Cause of Action for Conspiracy to Violate Civil Rights and Commit Torts because
21 there is no evidence that Officer Defendants acted in concert with anyone at the hospital and
22 because the Officer Defendants have qualified immunity from suit on the Thirteenth Cause of
23 Action;

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8) Summary Judgment is granted in favor of the Officer Defendants as to Plaintiff's Fifteenth Cause of Action for Injunctive Relief because Plaintiff does not oppose Officer Defendants' Motion for Summary Judgment on the Fifteenth Cause of Action.

Accordingly, the following defendants, CLOVIS POLICE CORPORAL LONNIE R. AMERJAN, CLOVIS POLICE OFFICER TINA STIRLING, AND THE CITY OF CLOVIS, are dismissed from this action.

IT IS SO ORDERED.

Dated: March 4, 2011 /s/ OLIVER W. WANGER
United States District Court Judge