

1 would like to pursue his case. (*Id.*) Plaintiff was also advised that any amended complaint must
2 include a request for relief as the 1AC did not identify any relief he is seeking. (*Id.*) Finally,
3 Plaintiff was warned that he would only be provided one more opportunity to amend his
4 complaint. (*Id.* at 2.)

5 On August 1, 2016, Plaintiff filed a Second Amended Complaint (“2AC”). (Doc. 23.) The
6 Magistrate Judge screened the 2AC pursuant to its authority in 28 U.S.C. § 1915(e)(2) on
7 December 12, 2016 and filed Findings and Recommendations recommending that the 2AC
8 proceed under 42 U.S.C. § 1983 only on Plaintiff’s unlawful arrest (claims 4-5) and excessive
9 force claims (claims 2 and 6) against defendants Matthew and Sturgeon. (ECF No. 24 at 9.) The
10 Magistrate Judge further recommended that all remaining claims and defendants be dismissed.
11 (*Id.*) This was served on Plaintiff that same day and contained notice that any objections were to
12 be filed within twenty days. (*Id.*) Plaintiff did not file objections to the Findings and
13 Recommendations within twenty days.

14 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
15 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the
16 Findings and Recommendations to be supported by the record and by proper analysis.

17 Accordingly, it is HEREBY ORDERED that:

- 18 1. The Findings and Recommendations, filed December 12, 2016 (Doc. 24), are
19 adopted in full;
- 20 2. This action proceed under 42 U.S.C. § 1983 only on Plaintiff’s unlawful arrest
21 (claims 4-5) and excessive force claims (claims 2 and 6) against defendants
22 Matthew and Sturgeon; and
- 23 3. All remaining claims and defendants are dismissed from this action as follows:
 - 24 a. Claim 1 for conspiracy to commit malicious prosecution under 42 U.S.C. §
25 1983 against Matthew and Sturgeon is DISMISSED with prejudice;
 - 26 b. Claim 3 for malicious prosecution under 42 U.S.C. § 1983 against Matthew
27 and Sturgeon is DISMISSED with prejudice;

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- c. Claims 7 and 11 for ineffective assistance of counsel under 42 U.S.C. § 1983 against Sabrina Ashjian and Gary Shinaver are DISMISSED with prejudice;
- d. Claims 8 and 10 for deprivation of due process under 42 U.S.C. § 1983 against Ashjian and Shinaver are DISMISSED with prejudice; and
- e. Claim 9 for legal malpractice under state law against Ashjian and Shinaver is DISMISSED without prejudice.

IT IS SO ORDERED.

Dated: January 12, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE