

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

E-FILED on 2/22/10

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DAVID LITMON, JR.,  
Plaintiff,  
v.  
SANTA CLARA COUNTY, et al.,  
Defendants.


No. C-09-02158 RMW  
  
ORDER INVITING FURTHER BRIEFING  
  
[Re Docket No. 10]

Plaintiff David Litmon, Jr. ("Litmon"), proceeding *pro se* in this matter, filed suit against defendants Santa Clara County ("the County") and Stephen Mayberg ("Mayberg") under 42 U.S.C. § 1983, alleging violations of his Fourth and Fourteenth Amendment rights. Pursuant to a settlement agreement, Litmon dismissed his claim against the County with prejudice. Mayberg now moves for summary judgment based on: (1) lack of factual allegations showing personal participation, (2) quasi-legislative immunity, (3) quasi-prosecutorial immunity, (4) compliance with the SVPA with a procedurally improper standardized assessment protocol, (5) lack of harm to plaintiff even if there was no standardized assessment protocol, (6) lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine, and (7) the statute of limitations.

Based on a preliminary review of the papers and having heard the arguments of the parties on January 29, 2010, it appears that qualified immunity may be a dispositive issue in this case.

1 However, the parties have not briefed the issue of qualified immunity. Accordingly, the court  
2 invites briefing on this issue to be filed by Mayberg no later than April 19, 2010. If Litmon wishes  
3 to respond, he may do so by filing a response within fourteen days of his receipt of any briefing filed  
4 by Mayberg. The court defers ruling on the summary judgment motion pending further briefing on  
5 this issue.

6  
7  
8 DATED: 2/22/10

  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

1 **Notice of this document has been sent to:**

2 **Plaintiff:**

3 David Litmon, Jr.  
4 32314 Ruth Court  
5 Union City, CA 94587

6 **Counsel for Defendant:**

7 Thomas A. Blake                      tom.blake@doj.ca.gov

8 Counsel are responsible for distributing copies of this document to co-counsel that have not  
9 registered for e-filing under the court's CM/ECF program.

10

11

12 **Dated:** 2/22/10

CCL  
**Chambers of Judge Whyte**

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28