

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

|                    |   |                     |
|--------------------|---|---------------------|
| -----X             | : |                     |
| PASQUALE RAFFONE   | : | 3:13 CV 1589 (JBA)  |
|                    | : |                     |
| V.                 | : |                     |
|                    | : |                     |
| CHRISTOPHER NUGENT | : | DATE: JUNE 16, 2014 |
|                    | : |                     |
| -----X             |   |                     |

RULING ON PENDING MOTIONS

On or about September 17, 2013, plaintiff, Pasquale Raffone, currently an inmate at the Bridgeport Correctional Center ["BCC"], filed this pro se lawsuit in the Connecticut Superior Court in Bridgeport against defendant Christopher Nugent, a Shelton Police Officer, under Section 1983 for excessive force, with regard to defendant's police dog having bitten plaintiff on March 19, 2013; on October 30, 2013, defendant removed the case to federal court. (Dkt. #1). Thirty days later, on November 29, 2013, defendant filed his Answer and Affirmative Defenses. (Dkt. #13). Under the present scheduling order, all discovery is to be completed by March 31, 2015, status reports are due by April 22, 2015, a status/pre-filing conference is scheduled before U.S. District Judge Janet Bond Arterton on April 29, 2015, and all dispositive motions are due by May 15, 2015. (1/27/14 Electronic Entry). On May 12, 2014, Judge Arterton referred this file to this Magistrate Judge to supervise discovery. (Dkt. #16; see also Dkts. ##22, 25).

Four motions currently are pending before the Court. First, on April 22, 2014, plaintiff filed his Motion to Preserve. (Dkt. #15). Second, on May 1, 2014, plaintiff filed his Request/Motion for Habeas (Dkt. #17), as to which defendant filed his objection eight days later. (Dkt. #19). Third, on May 9, 2014, defendant filed his Motion to Quash Subpoena

and brief in support. (Dkt. #20).<sup>1</sup> And fourth, on May 21, 2014, plaintiff filed his Request to Revise. (Dkt. #24).

There are two miscellaneous filings as well. On May 9, 2014, defendant filed his Objection to Plaintiff's Objection to Defendant's Deposition of Plaintiff's Witness (Dkt. #21),<sup>2</sup> as to which defendant filed a supplemental response on June 2, 2014. (Dkt. #27).<sup>3</sup> On May 21, 2014, plaintiff filed his Response to Defendant's Interrogatories. (Dkt. #23).

Plaintiff's Motion to Preserve, filed April 22, 2014 (Dkt. #15), concerns defendant's electronically stored information from March 19, 2013; in that no timely brief in opposition was filed, the motion is granted (although it appears that defendant already has provided the requested information to plaintiff, see Dkt. #20, Brief at 3, 7-9).

Plaintiff's Request/Motion for Habeas, filed May 1, 2014 (Dkt. #17), concerns his request for a habeas so that he could attend the deposition of Teresa Overton at the court reporter's office in Hartford; in that defendant has made appropriate arrangements for plaintiff to participate from BCC by video-conference, as to which plaintiff apparently does not presently object (see Dkts. #19, 21, 27), plaintiff's motion is denied as moot.

Defendant's Motion to Quash Subpoena, filed May 9, 2014 (Dkt. #20), objects to

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<sup>1</sup>The following four exhibits are attached: copy of plaintiff's Subpoena to Produce Documents, Information or Objects or to Permit Inspection of Premises in a Civil Action, dated April 22, 2014 (Exh. A); copy of plaintiff's Request of Production (Exh. B); copy of plaintiff's request to Records Clerk, dated April 12, 2014 (Exh. C); and copy of Pending Case Detail, printed May 7, 2014, regarding this plaintiff, from the web page of the State of Connecticut Judicial Branch (Exh. D).

<sup>2</sup>The following three exhibits are attached: copy of defendant's Subpoena in a Civil Case, dated April 8, 2014, directed to Teresa Overton (Exh. A); copy of plaintiff's letter to defense counsel, dated April 17, 2014 (Exh. B); and copies of e-mail correspondence, dated April 9, and May 2 and 5, 2014 (Exh. C).

<sup>3</sup>Attached as Exhs. A-B is a copy of a letter from plaintiff to defense counsel, dated May 18, 2014 and another copy of the April 17, 2014 letter.

information pertaining to plaintiff's prior arrest on December 18, 2012, as irrelevant, objects on grounds that defendant already has provided plaintiff with materials concerning his arrest, and further objects because plaintiff is represented by counsel in his criminal prosecution; in that no brief in opposition has been filed and for the reasons stated in defendant's brief, this motion is granted.

Plaintiff's Motion to Revise, dated May 21, 2014 (Dkt. #24), is granted, no timely brief in opposition having been filed. Plaintiff may file an Amended Complaint **on or before July 11, 2014**.

As of the present time, there is no need to address plaintiff's Response to Defendant's Interrogatories, filed May 21, 2014 (Dkt. #23), in which plaintiff invokes his Fifth Amendment privilege in light of the pending criminal case against him in the Connecticut Superior Court.

This is not a Recommended Ruling but a Ruling on discovery, the standard of review of which is specified in 28 U.S.C. § 636; FED. R. CIV. P. 6(a), 6(e) & 72; and Rule 72.2 of the Local Rules for United States Magistrate Judges. As such, it is an order of the Court unless reversed or modified by the District Judge upon timely made objection. See also Small v. Secretary, H&HS, 892 F.2d. 15, 16 (2d Cir. 1989)**(failure to file timely objection to Magistrate Judge's recommended ruling may preclude further appeal to Second Circuit)**; Caidor v. Onondaga County, 517 F.3d 601, 603-05 (2d Cir. 2008)(failure to file timely objection to Magistrate Judge's discovery ruling will preclude further appeal to Second Circuit).

See 28 U.S.C. § 636(b)(written objections to ruling must be filed within **fourteen** days after service of same); FED. R. CIV. P. 6(a), 6(e) & 72; Rule 2 of the Local Rules for United States Magistrate Judges, United States District Court for the District of Connecticut;

Small v. Secretary, H & HS, 892 F.2d 15, 16 (2d Cir. 1989)(failure to file timely objection to Magistrate Judge's recommended ruling may preclude further appeal to the Second Circuit).

Dated at New Haven, Connecticut, this 16th day of June, 2014.

/s/ Joan G. Margolis, USMJ  
Joan Glazer Margolis  
United States Magistrate Judge