

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 13-60483-CIV-GAYLES/TURNOFF

MAXIMO GORDON,

Plaintiff,

v.

DETECTIVE GARY AMUNDSON,

et al.,

Defendants.

ORDER

THIS CAUSE came before the Court on Magistrate Judge Patrick A. White’s Report (“Report”) [ECF No. 44]. On February 28, 2013, Plaintiff Maximo Gordon (“Plaintiff”), filed a *pro se* civil rights complaint [ECF No. 1] pursuant to 42 U.S.C. section 1983 (“section 1983”), seeking declaratory judgment and monetary damages for alleged violations of his constitutional rights. The Clerk referred the case to Magistrate Judge White under Administrative Order 2003-19 for a report and recommendation on any dispositive matters. (*See* [ECF No. 3]). In the Report, Magistrate Judge White recommends that Defendants’ motion for summary judgment [ECF No. 29] be granted and that Plaintiff’s excessive force claim be dismissed. Gordon failed to timely file objections to the Report. The Court has carefully reviewed the Report, the record, and applicable law.

I. BACKGROUND

In the Report, Magistrate Judge White finds that Plaintiff’s excessive force claim is barred by the rule of *Heck v. Humphrey*, 512 U.S. 477 (1994), because a judgment in Plaintiff’s favor in this §1983 excessive force action would necessarily imply the invalidity of Plaintiff’s

underlying criminal conviction of aggravated fleeing or eluding a law enforcement officer. When a magistrate judge's "disposition" has properly been objected to, district courts must review the disposition *de novo*. FED. R. CIV. P. 72(b)(3). If no party timely objects, however, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted). Plaintiff has failed to timely object to the report.

The Court has reviewed the Report for clear error and is in full agreement with Judge White's comprehensive analysis and recommendations. The Court therefore finds Defendants' motion for summary judgment should be granted and that Plaintiff's excessive force claim be dismissed.

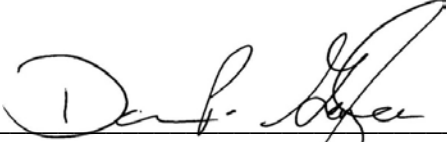
For the reasons stated above, it is

ORDERED AND ADJUDGED that the Report [ECF No. 44] is **AFFIRMED AND ADOPTED**. It is further

ORDERED AND ADJUDGED that Defendants' Motion for Summary Judgment [ECF No. 29] is **GRANTED** and Plaintiff's claim for excessive force is **DISMISSED** with prejudice. It is further

ORDERED AND ADJUDGED that this case is **CLOSED** and any pending motions are **DENIED as moot**.

DONE AND ORDERED in Chambers at Miami, Florida this 21st day of January, 2015.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE