

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

STEPHANIE BOND,)	
)	
Plaintiff,)	
v.)	Case No. 11-CV-2059
)	
DAN WALSH, Champaign County Sheriff,)	
et al.,)	
)	
Defendants.)	

ORDER

On August 18, 2011, Magistrate Judge David G. Bernthal filed a Report and Recommendation (#47) in this case. On August 26, 2011, five of the Defendants, Michael Atkinson, Kim Cessna, Robert Kotcher, James Morrissey and Troy Phillips, filed an Objection to Report and Recommendation (#49). On September 6, 2011, this court entered an Order (#50). This court conducted a careful and thorough de novo review of Judge Bernthal's reasoning and Defendants' Objection. Following this review, this court agreed with and accepted Judge Bernthal's well-reasoned Report and Recommendation. Accordingly, the Motion to Dismiss (#30) filed by Defendants State of Illinois, Illinois State Police, Atkinson, Cessna, Kotcher, Morrissey and Phillips was GRANTED in part and DENIED in part. Defendants' Motion to Dismiss was granted with respect to Count I. Plaintiff was allowed fourteen (14) days to file an amended complaint naming only the Champaign County Sheriff. Defendants' Motion to Dismiss was denied with respect to Count II.

On September 8, 2011, Judge Bernthal filed a second Report and Recommendation (#52) regarding the Motion to Dismiss (#35) filed by the other Defendants in this case, Champaign County Sheriff Dan Walsh, David Coffey, Richard Ferriman, Mark Goodwin, Seth Herrig, Dustin

Heuerman, Allen Jones, Nick R. Neeves, Richard Quick, Carey Schalber, Eric Shumate, Jeff Vercler, Robert Weston, Richard Coleman, Keith Cunningham and Kris Bolt. Judge Bernthal recommended that the Motion to Dismiss (#35) be denied as to Counts I through IV and be found moot as to Counts V and VI. Judge Bernthal also recommended that the claim for punitive damages in Count I against the Sheriff in his official capacity be stricken.

On September 9, 2011, Plaintiff filed her 49-page First Amended Complaint (#53). Consistent with this court's Order (#50), the Amended Complaint named only the Champaign County Sheriff as a Defendant in Count I. In addition, the Amended Complaint (#53) omitted a request for punitive damages from the Champaign County Sheriff in Count I and also omitted Counts V and VI.

On October 6, 2011, Defendants Atkinson, Cessna, Kotcher, Morrissey and Phillips filed a Notice of Appeal (#56). These Defendants have appealed from this court's Order (#50) which denied their Motion to Dismiss, which was based upon the Eleventh Amendment and qualified immunity.

On October 7, 2011, Defendants Walsh, Coffey, Ferriman, Goodwin, Herrig, Heuerman, Jones, Neeves, Quick, Schalber, Shumate, Vercler, Weston, Coleman, Cunningham and Bolt filed their Objections to Report and Recommendation (#60). This court has conducted a careful and thorough de novo review of Judge Bernthal's reasoning and Defendants' Objections. Following this review, this court agrees with and accepts Judge Bernthal's well-reasoned Report and Recommendation. This court agrees that Plaintiff's detailed, clear allegations are sufficient to state a plausible claim for relief. This court also agrees that the Complaint "adequately alleges a constitutional violation, specifically of equal protection, and that the right was clearly established at the time of Plaintiff's injury."

IT IS THEREFORE ORDERED THAT:

(1) The Report and Recommendation (#52) is accepted by this court.

(2) The Motion to Dismiss (#35) filed by Defendants Walsh, Coffey, Ferriman, Goodwin, Herrig, Heuerman, Jones, Neeves, Quick, Schalber, Shumate, Vercler, Weston, Coleman, Cunningham and Bolt is DENIED as to Counts I through IV and is MOOT as to Counts V and VI. This court notes that Judge Bernthal also recommended that Plaintiff's claim for punitive damages in Count I be stricken from the Complaint. However, Plaintiff did not include a request for punitive damages in Count I of her First Amended Complaint (#53) so there is no need to strike the punitive damages claim.

(3) This case is referred to Judge Bernthal for further proceedings.

ENTERED this 13th day of October, 2011

s/ Michael P. McCuskey
MICHAEL P. McCUSKEY
CHIEF U.S. DISTRICT JUDGE