

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JOHNNIE ROBERT CAPERS,

Case No. 13-CV-1041 (PJS/JJG)

Plaintiff,

v.

ORDER

RAMSEY COUNTY PUBLIC DEFENDER  
and CHRISTOPHER SEEHUETTER, Saint  
Paul Police Officer,

Defendants.

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Johnnie Robert Capers, pro se.

Alethea M. Huyser, MINNESOTA ATTORNEY GENERAL'S OFFICE, for defendant  
Ramsey County Public Defender.

Plaintiff Johnnie Capers brings claims under 42 U.S.C. § 1983 and the United States Constitution against the Ramsey County Public Defender ("Public Defender") and Christopher Seehuetter, a deceased St. Paul police officer. This matter is before the Court on Capers's objection to the January 15, 2014 Report and Recommendation ("R&R") of Magistrate Judge Jeanne J. Graham. Judge Graham recommends dismissing all claims against Officer Seehuetter under 28 U.S.C. § 1915(e)(2)(B)(ii) and granting the Public Defender's motion to dismiss. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court adopts the R&R.

The Court agrees with Judge Graham that the Eleventh Amendment bars Capers's § 1983 and constitutional claims against the Public Defender and that Capers has not pleaded any facts to support the official-capacity claims that he asserts against Officer Seehuetter. In his objection, Capers does not identify any error in Judge Graham's analysis. Instead, Capers mostly refers to

claims — in particular, claims under 42 U.S.C. § 1985 and 42 U.S.C. § 2000d-7 — that are included in a *second* amended complaint that he submitted with his objection and that he seeks leave to file. That pleading is not properly before the Court, however. *See* Fed. R. Civ.

P. 15(a)(2).<sup>1</sup>

The Court therefore adopts the R&R. But because, as noted, Capers has recently filed a motion to amend his complaint, the Court will not enter judgment at this time in order to permit consideration of Capers's motion.

#### ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS the R&R [ECF No. 24]. Accordingly, IT IS HEREBY ORDERED THAT:

1. Defendant Ramsey County Public Defender's motion to dismiss [ECF No. 13] is GRANTED and plaintiffs' Sixth Amendment, Fourteenth Amendment, and 42 U.S.C. § 1983 claims against the Ramsey County Public Defender are DISMISSED WITH PREJUDICE.
2. Plaintiff's Fourth Amendment and 42 U.S.C. § 1983 claims against defendant Richard Seehuetter in his official capacity are DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

Dated: March 18, 2014

s/Patrick J. Schiltz  
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Patrick J. Schiltz  
United States District Judge

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<sup>1</sup>Capers seems to suggest that he pleaded § 1985 and § 2000d-7 claims in the *first* amended complaint that is properly before the Court, but he plainly did not.