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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHRISTOPHER EDWARD FERGUSON,

Plaintiff

v.

CHAD BAKER, et al.,

Defendants

Case No.: 2:16-cv-01525-APG-NJK

**Order Accepting Report and  
Recommendation and Denying Motion for  
Pretrial Conference as Moot**

[ECF Nos. 14, 16]

On December 18, 2017, Magistrate Judge Koppe entered her report and recommendation (R&R) recommending that I dismiss pro se plaintiff Christopher Ferguson's second amended complaint without prejudice for failure to state a claim. Ferguson's complaint, brought under 42 U.S.C. § 1983, alleges that two Las Vegas Metropolitan police officers violated his Fourteenth Amendment due process rights when they cited him for traffic violations during a routine traffic stop and caused his car to be impounded by Fast Tow Inc. He also claims that Fast Tow violated his due process rights when it sold his car without notice after he was unable to pay the fees required to retrieve the car. He alleges that the officers and Fast Tow violated the Fourth Amendment's prohibition of unlawful seizures when they impounded and sold his car. Construed liberally, Ferguson also alleges that the officers violated his equal protection rights because they discriminated against him on the basis of race and religion.<sup>1</sup>

Judge Koppe found that Ferguson failed to state a procedural due process claim because Ferguson alleged that he was given a hearing "related to his citation and impounded vehicle and [thus had] an opportunity to defend his case."<sup>2</sup> She recommended dismissing the claims against

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<sup>1</sup> See ECF No. 10.

<sup>2</sup> ECF No. 14 at 2.

1 Fast Tow because Ferguson could not establish that Fast Tow was acting under the color of state  
2 law. Judge Koppe determined that Ferguson's unlawful seizure claim was too vague and  
3 incomplete to adequately state a claim, and that his equal protection claim was based only on  
4 labels and conclusions, not facts.<sup>3</sup>

5 Ferguson filed objections to the R&R and a motion for pretrial conference. I have  
6 conducted a de novo review of the issues set forth in the R&R and considered Ferguson's  
7 objections. Ferguson's objections do not address Judge Koppe's reasons for recommending  
8 dismissal of this case. Instead, Ferguson only repeats his allegations and cites various Nevada  
9 laws that he contends the defendants violated. Those objections provide no basis to deviate from  
10 Judge Koppe's analysis. The R&R sets forth the proper legal analysis, and the factual basis, for  
11 dismissing this case. And granting Ferguson leave to amend to file a third amended complaint  
12 would be futile. Ferguson has been unable to adequately plead his claims in three iterations of  
13 his complaint, and he provides no basis to conclude that he could plead sufficient facts now.

14 **I. CONCLUSION**

15 IT IS THEREFORE ORDERED that the Report and Recommendation (ECF No. 14) is  
16 **accepted**, and Ferguson's second amended complaint (ECF No. 10) is **DISMISSED without**  
17 **prejudice**.

18 IT IS FURTHER ORDERED that Ferguson's motion for pretrial conference (ECF No.  
19 **16**) is **DENIED as moot**.

20 DATED this 20th day of July, 2018.

21   
22 \_\_\_\_\_  
23 ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> See *id.*