

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TARIK MESSAD,

Plaintiff,

v.

RENO JUSTICE CENTER, *et al.*,

Defendants.

Case No. 3:15-cv-00582-MMD-VPC

ORDER REGARDING REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

I. SUMMARY

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 4) (“R&R”) relating to Plaintiff’s Motion to Proceed in Forma Pauperis (ECF No. 1) and Plaintiff’s Motion for Preliminary Injunction (ECF No. 1-2). The Court has reviewed Plaintiff’s objections to the R&R. (ECF No. 5) For the reasons discussed below, the Court adopts the R&R in full.

II. BACKGROUND

Plaintiff, proceeding pro se and *in forma pauperis*, is asserting a number of constitutional claims arising out of his allegedly unlawful detention after a warrantless arrest for gross misdemeanor assault. (ECF No. 1-1 at 2-5.) He is suing the Reno Justice Court, Washoe County, and Washoe County Sheriff Chuck Allen (“Sheriff Allen”). The relevant background information, which the Court adopts, is set out in the R&R. (See ECF No. 4 at 3-4.)

1 **III. LEGAL STANDARD**

2 This Court “may accept, reject, or modify, in whole or in part, the findings or
3 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
4 timely objects to a magistrate judge’s report and recommendation, then the court is
5 required to “make a *de novo* determination of those portions of the [report and
6 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). In light of Plaintiff’s
7 objections, the Court has engaged in a *de novo* review to determine whether to adopt
8 Magistrate Judge Cooke’s recommendations.

9 **IV. DISCUSSION**

10 Plaintiff’s objection (ECF No. 5) does not address the ultimate recommendations
11 of the Magistrate Judge. The Magistrate Judge noted in passing that *Younger* abstention
12 may become an issue later in litigation, and recommended permitting Plaintiff’s § 1983
13 claim based on the Fourth Amendment to move forward. Therefore, Plaintiff’s discussion
14 of *Younger* is not yet relevant to this Court’s decision. As he has not objected to any
15 other portion of the R&R, the Court will adopt it in full and allow Plaintiff’s Fourth
16 Amendment claim to proceed against Washoe County and Sheriff Allen.

17 **V. CONCLUSION**

18 It is therefore ordered, adjudged and decreed that the Report and
19 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 4) be accepted and
20 adopted in full.

21 It is therefore that plaintiff’s application to proceed *in forma pauperis* (ECF No. 1)
22 is granted.

23 It is further ordered that the Clerk file the complaint (ECF No. 1-1);

24 It is further ordered that plaintiff’s Fourth Amendment claim proceed against
25 Washoe County and Sheriff Allen;

26 It is further ordered that the claims set forth against the Reno Justice Court, and
27 the Sixth and Fourteenth Amendment claims against all defendants, be dismissed
28 without prejudice, without leave to amend.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further ordered that plaintiff's motion for preliminary injunction (ECF No. 1-2) be denied.

DATED THIS 31st day of August 2016.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE