

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RONALD L. HESTER,

Plaintiff,

-against-

1:20-CV-1153 (LEK/CFH)

DETECTIVE REGAN, *et al.*,

Defendants.

DECISION AND ORDER

I. INTRODUCTION

Pro se plaintiff Ronald L. Hester filed a 42 U.S.C. § 1983 action against Detective Regan, Detective Jason Kelly, City of Albany Police Department (“APD”), and Sergeant Plante. Dkt. No. 8 (“Amended Complaint”). On April 22, 2021, the Honorable Christian F. Hummel, United States Magistrate Judge, recommended that Plaintiff’s Fourth Amendment claim based on violations of the APD search policies, Fourth Amendment claim for excessive force, § 1983 conspiracy claim, § 1983 false testimony claim, Fourteenth Amendment due process claim, and § 1983 malicious prosecution claim be dismissed, and the remainder of Plaintiff’s claims be permitted to proceed. Dkt. No. 10 (“Report-Recommendation”). For the reasons that follow, the Court adopts the Report-Recommendation in its entirety.

II. BACKGROUND

The facts are detailed in the Report-Recommendation, familiarity with which is assumed. See R. & R. at 4–8.

III. STANDARDS OF REVIEW

Within fourteen days after a party has been served with a copy of a magistrate judge’s

report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If objections are timely filed, a court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). However, if no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07 (N.D.N.Y. 2008), abrogated on other grounds by Widomski v. State Univ. of N.Y. at Orange, 748 F.3d 471 (2d Cir. 2014). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

IV. DISCUSSION

Neither party filed objections to the Report-Recommendation. See Docket. Consequently, the Court reviews the Report-Recommendation for clear error and finds none. Therefore, the Court adopts the Report-Recommendation in its entirety.

V. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 10) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that Plaintiff’s Fourth Amendment claim based on violations of Albany Police Department search policies be **DISMISSED with prejudice**; and it is further

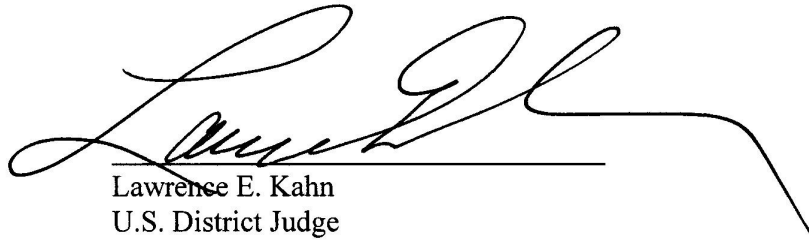
ORDERED, that Plaintiff's Fourth Amendment claim for excessive force, § 1983 conspiracy claim, § 1983 claim based on Defendants' false testimony, Fourteenth Amendment due process claim, and § 1983 malicious prosecution claim be **DISMISSED without prejudice**; and it is further

ORDERED, that the remainder of Plaintiff's claims be permitted to proceed; and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: May 17, 2021
Albany, New York



Lawrence E. Kahn
U.S. District Judge