

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**GREGORY EDWARDS also known as
GREGORY EDWARDS - EL,**

Plaintiff,

v.

**5:16-CV-1475
(FJS)**

**SYRACUSE POLICE DEPARTMENT;
ABRAHAM MAMOUN, Officer; ROBERT
HARRINGTON, Officer; and ANDREW
QUINN, Officer,**

Defendants.

APPEARANCES

GREGORY EDWARDS

15-B-2450

Cayuga Correctional Facility

P.O. Box 1186

Moravia, New York 13118

Plaintiff *pro se*

SCULLIN, Senior Judge

ORDER

Plaintiff commenced this action against the Syracuse Police Department and three individual police officers pursuant to 42 U.S.C. § 1983, claiming that Defendant officers assaulted him during the course of a stop and subsequent arrest on December 22, 2013, and that Defendant Syracuse Police Department has promulgated policies that permitted the unlawful assault to occur.

On December 30, 2016, Magistrate Judge Peebles issued a Report, Recommendation and Order, in which he, among other things, recommended that this Court dismiss Defendant Syracuse Police Department from this action and substitute the City of Syracuse as a Defendant in its place.

See Dkt. No. 4 at 8. Magistrate Judge Peebles also recommended that the Court otherwise accept Plaintiff's complaint for filing. *See id.* at 9.

Although Plaintiff did not file any objections to Magistrate Judge Peebles' recommendations, he did file an amended complaint. *See* Dkt. No. 5. The Court has reviewed Plaintiff's amended complaint; and it appears that, other than differences in formatting and the substitution of Defendant City of Syracuse as a defendant in place of Defendant Syracuse Police Department, the amended complaint is identical to Plaintiff's original complaint.¹ *Compare* Dkt. No. 1 *with* Dkt. No. 5.²

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Peebles' December 30, 2016 Report, Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Peebles' December 30, 2016 Report, Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

¹ It appears that Plaintiff may have concluded that Magistrate Judge Peebles had instructed him to file an amended complaint to comply with his recommendations.

² Plaintiff also filed a motion for leave to proceed *in forma pauperis*. *See* Dkt. No. 6. The Court denies this motion as moot because Magistrate Judge Peebles granted Plaintiff's previously filed motion for leave to proceed *in forma pauperis*, *see* Dkt. No. 2. *See* Dkt. No. 4 at 8.

ORDERS that Defendant Syracuse Police Department is **DISMISSED** from this action and the **City of Syracuse** is **substituted in its place as a Defendant**; and the Court further

ORDERS that Plaintiff's **amended complaint**, *see* Dkt. No. 5, is **ACCEPTED for filing**; and the Court further

ORDERS that Plaintiff's most recently filed motion for leave to proceed *in forma pauperis*, *see* Dkt. No. 6, is **DENIED as moot** for the reasons stated herein; and the Court further

ORDERS that the Clerk of the Court shall issue summonses and forward them with copies of the amended complaint to the United States Marshal, along with packets containing General Order 25, which sets forth this District's Civil Case Management Plan, for service on the four named Defendants; and the Court further

ORDERS that the Courtroom Deputy Clerk shall schedule a Rule 16 conference; and the Court further

ORDERS that, subsequent to service of process on Defendants, Defendants or their counsel shall file a formal response to Plaintiff's amended complaint in compliance with the Federal Rules of Civil Procedure; and the Court further

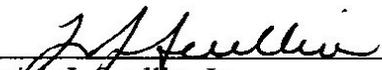
ORDERS that parties shall file all pleadings, motions and other documents relating to this action with the Clerk of the United States District Court, Northern District of New York, James Hanley U.S. Courthouse & Federal Building, 7th Floor, 100 South Clinton Street, Syracuse, New York 13261-7367. **The parties must accompany any paper that they send to the Court or to the Clerk of the Court with a certificate showing that they have mailed a true and correct copy of the same to all opposing parties or their counsel. The Court will return, without processing, any document that the Court or the Clerk of the Court receives that does not**

include a certificate of service showing that the party served a copy on all opposing parties or their counsel. Plaintiff must comply with any requests of the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which the parties must make returnable before the undersigned district judge with proper allowance for notice as the Rules require. The Court will decide all motions based on the papers that the parties submit, without oral argument, unless the Court orders otherwise. **Plaintiff must promptly notify the Clerk's Office and all parties or their counsel of any change in his address; his failure to do so will result in the dismissal of this action;** and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: January 23, 2017
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge