

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

DASHON HINES,

Plaintiff,

vs.

**5:20-CV-638
(TJM/ATB)**

**Lt. ROSE J. DELL, New Haven
Police Department,**

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Andrew T. Baxter for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that the Defendant, a Lieutenant in the New Haven, Connecticut, Police Department, violated his rights by ordering him not to contact Patricia King about an incident he wanted the New Haven Police Department to investigate. Patricia King is New Haven Corporate Counsel. Plaintiff resides in Buffalo, New York.

Magistrate Judge Baxter's Report-Recommendation, dkt. # 157, issued on June 11, 2020, recommends that Plaintiff's complaint be dismissed without prejudice to Plaintiff filing the Complaint in a proper venue. Magistrate Judge Baxter notes that Plaintiff, who resides in the Western District of New York, is subject to a filing restriction in that District,

and has recently filed a number of cases in this District, apparently in an effort to avoid that restriction. Magistrate Judge Baxter also finds that venue in this District is improper because neither of the parties reside in this District, and none of the events giving rise to the Complaint occurred in the District. Given Plaintiff's past attempts to manipulate venue to avoid filing restrictions, however, he does not recommend that the Court transfer the case to a proper venue. Instead, he recommends that the Court dismiss the case without prejudice to Plaintiff filing the case in a proper court.

Plaintiff objected to the Report-Recommendation. See dkt. # 4. When a party objects to a magistrate judge's Report-Recommendation, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

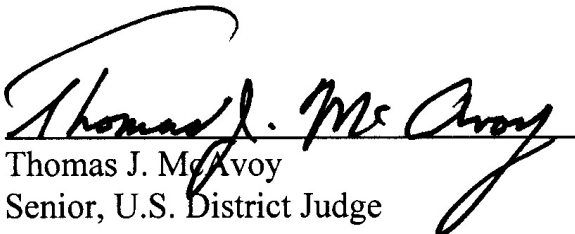
Plaintiff's objections largely repeat and amplify the allegations in his Complaint, which are that he complained about an incident in New Haven to Patricia King. When she did not respond to that and another request, Defendant Rose Dell of the New Haven Police Department contacted Plaintiff and asked him to contact Police, rather than King, about the incident he wanted investigated. None of Plaintiff's objections address the reason for dismissal of the action—lack of venue—or the reasons why Magistrate Judge Baxter does not recommend transferring venue to the District of Connecticut. Having considered all of Plaintiff's objections, the Court concludes that Report-Recommendation should be accepted and adopted for the reasons stated therein.

Accordingly,

Plaintiff's objections to the Report-Recommendation of Magistrate Judge Baxter, dkt. # 4, are hereby **OVERRULED**. The Report-Recommendation, dkt. # 3, is hereby **ACCEPTED** and **ADOPTED**. The Plaintiff's Complaint is hereby **DISMISSED** without prejudice for lack of venue. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: August 5, 2020


Thomas J. McAvoy
Senior, U.S. District Judge