

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL TOLIVER : 10 Civ. 5806 (SHS)

Plaintiff, :

-against- :

ORDER

THE CITY OF NEW YORK, *ET AL.*, :

Defendants. :

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SIDNEY H. STEIN, U.S. District Judge.

On December 10, 2013, Magistrate Judge James C. Francis issued a Report and Recommendation (the Report and Recommendation is incorrectly dated December 10, 2012) recommending that the defendants' motion for partial summary judgment be granted as to (1) plaintiff's excessive force and failure to intervene claims as against Captain Pressley, Captain Banks, and Officer McArdle, (2) plaintiff's deliberate indifference to medical need claims as against all defendants, and (3) plaintiff's destruction of property claim as against all defendants, and denied as to plaintiff's state law claims insofar as they relate to plaintiff's claim of excessive force by Officer Burton. To date, no objections have been received by this Court. After a *de novo* review of the Report and Recommendation dated December 10, 2013,

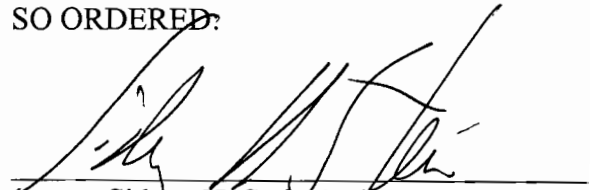
IT IS HEREBY ORDERED that:

1. Magistrate Judge Francis's Report & Recommendation is adopted; and
2. Defendants' motion for partial summary judgment [doc. no. 102] is granted as to (1) plaintiff's excessive force and failure to intervene claims as against Captain Pressley, Captain Banks, and Officer McArdle, (2) plaintiff's deliberate indifference to medical

need claims as against all defendants, and (3) plaintiff's destruction of property claim as against all defendants, and denied as to plaintiff's state law claims insofar as they relate to plaintiff's claim of excessive force by Officer Burton.

Dated: New York, New York
February 11, 2014

SO ORDERED:



Sidney H. Stein, U.S.D.J.