

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

---

SHAWN EVANS,

Plaintiff,

v.

ORDER  
12-CV-365

OFFICER P. MURPHY, et al.,

Defendants.

---

---

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. §636(b)(1)(B). Plaintiff filed a motion for a temporary restraining order (Dkt. No. 49) and defendants filed a motion for summary judgment (Dkt. No. 56). On February 11, 2014, Magistrate Judge Scott issued a Report and Recommendation recommending the following: (1) that plaintiff's motion for a temporary restraining order be denied; (2) that defendants' motion for summary judgment with respect to plaintiff's December 31, 2011 claims be granted; (3) that defendants' motion for summary judgment with respect to plaintiff's January 13, 2012 claims against defendants Rozell and Reppert be denied; (4) that defendants' motion for summary judgment with respect to plaintiff's failure to intervene claims be granted; (5) that defendants' motion for summary judgment with respect to plaintiff's retaliation claims be granted; and (6) that defendants' motion for summary judgment based upon qualified immunity be denied. (Dkt. No. 75)

Plaintiff filed objections to the Report and Recommendation on February 26, 2014. (Dkt. No. 76) Defendants filed a response on March 5, 2014 (Dkt. No. 77), and the Court considered the matter submitted without oral argument.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiff's motion for a temporary restraining order is denied, and defendants' motion for summary judgment is granted in part and denied in part, as set forth in detail in the Report and Recommendation.

The matter is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

*Richard J. Arcara*  
HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

Dated: March 12, 2014

