

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION**

Alois Vetter,)	
)	
Plaintiff,)	ORDER ADOPTING REPORT AND RECOMMENDATION
)	
vs.)	
)	Case No. 3:14-cv-121
Derek Cruff, Reid Brady, Birch Burdick,)	
and Cass County, a political subdivision)	
of the State of North Dakota, and West)	
Fargo Police department,)	
)	
Defendants.)	

The Plaintiff initiated this civil rights action on December 4, 2015. See Docket No. 1. On March 18, 2015, Defendants Derek Cruff, Reid Brady, Birch Burdick, and Cass County filed a motion for summary judgment. See Docket No. 23. On March 24, 2015, the Plaintiff filed a response in opposition to the motion. See Docket No. 26.

On August 10, 2015, Magistrate Judge Alice R. Senechal issued a Report and Recommendation in which she recommended the motion for summary judgment be granted and the action be dismissed without prejudice as the Plaintiff’s official capacity claims fail as a matter of law. See Docket No. 36. The parties were given until August 24, 2015, to file objections to the Report and Recommendation. The Plaintiff filed an objection to the Report and Recommendation on August 19, 2015. See Docket No. 37.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. The claims against Defendants Derek Cruff, Reid Brady, Birch Burdick, and Cass County must be considered official capacity claims and such claims fail as a matter of law as the complaint fails to allege any county or city policy or custom caused the alleged deprivation. While it is unclear if the Plaintiff sought to bring a claim against the West Fargo Police Department, any such claim would also fail as a

police department is not amenable to suit under 42 U.S.C. § 1983. Dismissal is warranted. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 36) in its entirety. The Defendants' motion for summary judgment is **GRANTED** and the action is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this 25th day of August, 2015.

/s/ Daniel L. Hovland _____
Daniel L. Hovland, District Judge
United States District Court