

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

Charles Dipasquale,

*Plaintiff,*

v.

Case No. 3:16-cv-219  
Judge Thomas M. Rose  
Mag. Judge Michael J. Newman

Detective James Hawkins, et al,

*Defendants.*

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**DECISION AND ORDER ADOPTING REPORT AND RECOMMENDATIONS, (ECF 42), OVERRULING DEFENDANT JAMES HAWKINS'S OBJECTIONS TO MAGISTRATE'S REPORT AND RECOMMENDATIONS, (ECF 46), OVERRULING PLAINTIFF CHARLES DIPASQUALE'S OBJECTIONS TO MAGISTRATE'S REPORT AND RECOMMENDATIONS, (ECF 47), GRANTING DEFENDANT HERRES'S PARTIAL MOTION FOR JUDGMENT ON THE PLEADINGS (ECF 18); GRANTING DEFENDANT PROCTER'S MOTION FOR JUDGMENT ON THE PLEADINGS (ECF 25), TERMINATING HIM AS A PARTY TO THIS CASE; AND GRANTING IN PART AND DENYING IN PART DEFENDANT HAWKINS'S MOTION FOR JUDGMENT ON THE PLEADINGS. (ECF 22). HAWKINS'S MOTION IS GRANTED WITH REGARD TO THE CLAIM OF CIVIL CONSPIRACY, BUT DENIED WITH REGARD TO THE CLAIM OF MALICIOUS PROSECUTION.**

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This case is before the Court on Magistrate Judge Michael J. Newman's Report and Recommendations, (ECF 42), Defendant James Hawkins's Objections to the Report and Recommendations, (ECF 46), Plaintiff Charles Dipasquale's Objections to the Report and Recommendations, (ECF 47), Defendant Mark Herres's Partial Motion for Judgment on the Pleadings, (ECF 18), Defendant Brad Procter's Motion for Judgment on the Pleadings, (ECF 25), and Defendant James Hawkins's Motion for Judgment on the Pleadings. (ECF 22). Plaintiff's

complaint describes a failed criminal prosecution stemming from a failed business relationship that involved, inter alia, a 1968 Ford Torino, and asserts claims under § 1983 for malicious prosecution in violation of the Fourth Amendment and a civil conspiracy between the Defendants. Id. at PageID 10. Dipasquale also seeks a finding against Herres under Ohio Rev. Code § 4505.02 that the certificate of title issued for the Torino was improperly issued. Id. at PageID 10.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case, taking into consideration all objections. Upon said review, the Court finds that the objections, (ECF 46, 47), to Report and Recommendations, (ECF. 42), are not well taken and they are hereby **OVERRULED**. Wherefore, the Court **ADOPTS IN FULL** the Magistrate Judge's Report and Recommendations. (ECF 42.) Defendant Herres's Motion for Partial Judgment on the Pleadings (ECF 18) is **GRANTED**. Defendant Proctor's Motion for Judgment on the Pleadings (ECF 25) is **GRANTED**. Hawkins's Motion for Judgment on the Pleadings (ECF 22) is **GRANTED** as it relates to the claim of civil conspiracy and **DENIED** as it relates to the claim of malicious prosecution.

**DONE and ORDERED** this Wednesday, September 27, 2017.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE