

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>ROBERT GRAY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-17-914-R</b>
	)	
<b>MACY’S DEPARTMENT STORE,</b>	)	
<b>et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

Plaintiff filed this action alleging violation of his rights with regard to a July 8, 2017 incident at Penn Square Mall. He named as Defendants Macy’s Department Store, the Penn Square Mall Police and Parking Lot Security and the Oklahoma County Police Department or Precinct. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to United States Magistrate Judge Shon T. Erwin for preliminary review. On January 12, 2018, Judge Erwin issued a Report and Recommendation wherein he recommended dismissal of the claims against the Oklahoma County Police Department or Precinct, because there was no such entity amenable to suit. He further recommended dismissal without prejudice of Plaintiff’s claims against Macy’s and the Penn Square Mall Police for failure to state a claim because Plaintiff was not able to identify any particular person that allegedly violated his rights and made no specific factual allegations against Macy’s other than to assert that store personnel made false accusations resulting in his arrest, and noting that no charges were filed against him. On March 5, 2018, Plaintiff filed his timely objection to the Report and Recommendation. Therein Plaintiff does not take issue with any of Judge Erwin’s

recommendations. Rather, he includes a list of names of people allegedly present on July 8, 2017, the date of the incident and that he is seeking additional information from the Oklahoma County Clerk. The Court finds that the objection is insufficient to establish that Plaintiff's Complaint should not be dismissed for the reasons stated in Judge Erwin's Report and Recommendation. Furthermore, because the action will be dismissed without prejudice, and because the action only accrued in July 2017, and therefore, the statute of limitations has not run nor will it run in short course, that dismissal is appropriate. Plaintiff may continue seeking the information he contends is necessary to support his claims and file a new action alleging sufficient facts against the persons he alleges were actually involved in the violation of his rights during the incident.

For the reasons set forth herein, the Report and Recommendation is hereby ADOPTED IN ITS ENTIRETY and this action is DISMISSED against the Oklahoma County Police Precinct and DISMISSED WITHOUT PREJUDICE as to Defendants Macy's Department Store and Penn Square Mall Police and Parking Lot Security.

IT IS SO ORDERED this 7<sup>th</sup> day of March, 2018.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE