

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

BRIAN CODY ASHBAUGH,  
  
Plaintiff,

No. 3:17-cv-01038-JR  
  
ORDER

v.

YAMHILL COUNTY, BRAD BERRY,  
District Attorney of Yamhill County in his  
official capacity; the YAMHILL COUNTY  
DISTRICT ATTORNEY'S OFFICE, as an  
office of Yamhill County; TIM SVENSON,  
Sheriff of Yamhill County in his official  
capacity; and the YAMHILL COUNTY JAIL,  
by and through the YAMHILL COUNTY  
SHERIFF'S OFFICE, an office of Yamhill  
County,

Defendants.

Matthew N. Miller  
Lindsay Hart, LLP  
1300 SW 5th Avenue, Suite 3400  
Portland, OR 97201

Attorney for Plaintiff

Heather J. Van Meter  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096

Attorney for Defendants Yamhill County District Attorney's Office and Brad Berry

Gerald L. Warren  
Aaron Hisel  
Law Office of Gerald L. Warren and Associates  
901 Capitol Street NE  
Salem, OR 97301

Attorneys for Defendants Yamhill County, Yamhill County Jail, Yamhill County Sheriff's office, and Tim Svenson

HERNÁNDEZ, District Judge:

Magistrate Judge Russo issued a Findings and Recommendation on August 13, 2019, in which she recommends that the Court deny Plaintiff's motion for summary judgment; grant in part Defendants Yamhill County, Yamhill County Jail, Yamhill County Sheriff's office, and Tim Svenson's ("County Defendants") motion for summary judgment; and grant Yamhill County District Attorney's Office and Brad Berry's ("DAO Defendants") motion for summary judgment. Plaintiff and County Defendants timely filed objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

### **DISCUSSION**

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

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Plaintiff objects to the Findings and Recommendation and argues that (1) Plaintiff was entitled to summary judgment on his Fourteenth Amendment due process claim, (2) the Magistrate Judge erred in granting summary judgment to County Defendants on Plaintiff's Fourth Amendment claim, and (3) the Magistrate Judge erred by failing to draw all reasonable inferences in Plaintiff's favor when she analyzed the DAO Defendants' motion for summary judgment. Pl. Obj. to F&R, ECF 106. County Defendants object to the Findings and Recommendation and argue that the Magistrate Judge erred in denying their cross-motion for summary judgment on Plaintiff's Fourteenth Amendment due process claim. County Defendants' Obj. to F&R, ECF 105. The Court has carefully considered the parties' objections and concludes that the objections do not provide a basis to modify the recommendation. The Court has reviewed the pertinent portions of the record de novo and finds no error in the Magistrate Judge's Findings and Recommendation.

### **CONCLUSION**

The Court adopts Magistrate Judge Russo's Findings and Recommendation [100]. The Court GRANTS DAO Defendants' motion for summary judgment [85] and DENIES Plaintiff's motion for partial summary judgment [88]. County Defendants' cross-motion for summary judgment [90] is GRANTED IN PART. Defendants Svenson and Yamhill County Jail are DISMISSED, and Plaintiff's Fourth Amendment claim against Yamhill County is DISMISSED. Plaintiff's and County Defendants' motions for summary judgment on Plaintiff's Fourteenth Amendment claim are DENIED.

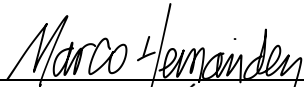
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IT IS SO ORDERED.

DATED: December 12, 2019.

  
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MARCO A. HERNÁNDEZ  
United States District Judge