

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JUSTIN STAUFFER,

Plaintiff,

v.

Case No. 3:17-cv-01295-YY

**CITY OF NEWBERG, BRIAN CASEY,
NATHAN JAMES, OFFICER CARL
BUSSE, CHRIS RASMUSSEN, PAUL
RAPET, and ERIC STONE,**

OPINION AND ORDER

Defendants.

MOSMAN, J.,

On March 20, 2020, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F&R”) [ECF 99], recommending that this court rule on three motions for summary judgment as follows: (1) The City of Newberg Defendants’ Motion for Summary Judgment [ECF 62] should be GRANTED in part and DENIED in part, (2) Defendant James’s Motion for Summary Judgment [ECF 67] should be DENIED but any negligence claims against

him should be dismissed, and (3) Plaintiff's Motion for Partial Summary Judgment [ECF 88] should be DENIED. No objections were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge You's recommendation and I ADOPT the F&R [99]. I make the following rulings, as outlined in Judge You's opinion:

On City Defendants' Motion for Summary Judgment [62], I GRANT summary judgment on Plaintiff's excessive force claim only against Defendant Rasmussen, on the *Monell* claim against all defendants, on the negligence claim against all defendants, and on the battery claim only against Defendant Rasmussen. I DENY summary judgment on the excessive force and battery claims against all defendants other than Defendant Rasmussen. I therefore DISMISS with

prejudice Plaintiff's claims for excessive force and battery against Defendant Rasmussen, Plaintiff's *Monell* claim, and his negligence claims.

Defendant James's Motion for Summary Judgment [67] is DENIED. However, any negligence claim against Defendant James is DISMISSED with prejudice, in light of my ruling on the City Defendants' motion.

Finally, Plaintiff's Partial Motion for Summary Judgment [88] is DENIED in full.

IT IS SO ORDERED.

DATED this 13 day of April, 2020.

Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge