

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>STEWART C. SMITH,</b>	:	<b>CIVIL ACTION NO. 1:09-CV-0889</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
v.	:	
	:	
<b>JOHN HANUSKA, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 21st day of January, 2010, upon consideration of the report of the magistrate judge (Doc. 22), to which objections were filed (Doc. 23), recommending that plaintiff's action be dismissed in its entirety for failure to prosecute and to comply with the order of court (Doc. 21) dated September 11, 2009,<sup>1</sup> and, following an independent review of the record, it appearing that plaintiff has elected to forego his deficiently-pled claims, (see Doc. 23), and to proceed with the well-pleaded allegations appearing in his complaint (Doc. 1), it is hereby ORDERED that:

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<sup>1</sup> The order of court (Doc. 21) dated September 11, 2009 held that plaintiff had adequately pled the following causes of action: (1) false arrest claims against defendants John Hanuska ("Hanuska") and David Bixler ("Bixler"), and (2) a claim asserting illegal search and seizure by defendant Hanuska. (Id. ¶ 1(a).) However, the court dismissed plaintiff's claims alleging conspiracy, violation of due process, violations of equal protection, malicious prosecution, excessive force, and violations of various state laws. (Id. ¶ 1(b).) Plaintiff was granted the opportunity to amend his complaint on or before October 9, 2009 to address the deficiencies of the dismissed claims. (Id. ¶ 2.)

1. The report and recommendation of the magistrate judge (Doc. 22) is **REJECTED** insofar as it recommends that plaintiff's action be dismissed in its entirety.
2. Plaintiff's deficiently-pled claims, which are identified in Paragraph 1(b) of the order of court (Doc. 21) dated September 11, 2009, are **DISMISSED** with prejudice.
3. The above-captioned case is **REMANDED** to the magistrate judge for further proceedings.

S/ Christopher C. Conner  
**CHRISTOPHER C. CONNER**  
United States District Judge