

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

KENNETH WINSTON ASHFORD,
Plaintiff

v.

SHERIFF SHAWN BRADY and
DEPUTY SHERIFF LEAS,
Defendants

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CIVIL ACTION NO. 1:10-CV-264

(Judge Conner)

ORDER

AND NOW, this 15th day of March, 2011, upon consideration of the Report and Recommendation of the Honorable J. Andrew Smyser (Doc. 44), recommending that plaintiff's motion for summary judgment (Doc. 39) be denied, and, following an independent review of the record and noting that plaintiff filed objections¹ to the report on March 1, 2011 (Doc. 45), and the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Smyser's report, it is hereby ORDERED that:

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

1. The report and recommendations of Magistrate Judge Smyser (Doc. 44) are ADOPTED.
2. Plaintiff's motion for summary judgment (Doc. 39) is DENIED.
3. This matter is hereby REMANDED to Magistrate Judge Smyser for trial upon consent of the parties. In the absence of consent, the Court shall issue a separate order scheduling this matter for trial.

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