

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

STANLEY J. CATERBONE,	:	
Plaintiff	:	No. 1:16-cv-2513
	:	
v.	:	(Judge Kane)
	:	(Magistrate Judge Carlson)
NATIONAL SECURITY AGENCY, <u>et al.</u>,	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the Court are the January 3, 2017 and January 9, 2017 Reports and Recommendations of Magistrate Judge Carlson. (Doc. Nos. 7, 9.) The Court will adopt the January 3, 2017 Report and Recommendation in part and will adopt the January 9, 2017 Report and Recommendation in its entirety.

On December 21, 2016, Plaintiff Stanley J. Caterbone filed a complaint seeking injunctive relief from alleged, daily assaults to his person and property by numerous law enforcement agencies. (See Doc. No. 1.) On December 27, 2016, Plaintiff filed an “amended” motion for preliminary injunction (Doc. No. 5), attaching 158 pages of exhibits to the amended “preliminary injunction for emergency relief” (Doc. Nos. 5-1, 5-2, 5-3, 5-4, 5-5, 5-6). On January 3, 2017, Magistrate Judge Carlson issued a Report and Recommendation, recommending that this Court deny the “amended” motion for preliminary injunction and dismiss with prejudice the above-captioned action. (Doc. No. 7 at 27-28.)

In his January 3, 2017 Report and Recommendation, Magistrate Judge Carlson reasons that Plaintiff’s “attenuated and unsubstantial” allegations warrant sua sponte dismissal under Federal Rule of Civil Procedure 12(b)(1) (Doc. No. 7 at 9-11), and that dismissal of the complaint is further warranted for failure to comply with Federal Rule of Civil Procedure 8 (id.

at 11-13). Magistrate Judge Carlson also provides that: (1) venue is proper in the United States District Court for the Eastern District of Pennsylvania (id. at 22-24); (2) Plaintiff's claims predating December 2014 are time-barred (id. at 19-22); (3) Plaintiff's federal civil rights claims for damages against Pennsylvania state agencies are barred by the Eleventh Amendment to the United States Constitution (id. at 15-19); and that (4) Plaintiff's constitutional tort claims against federal agencies are barred by sovereign immunity.¹ (Id. at 13-19.) In the alternative, Magistrate Judge Carlson provides in his January 3, 2017 Report and Recommendation that this Court may transfer the above-captioned action, pursuant to 28 U.S.C. § 1406, to the Eastern District of Pennsylvania, as a substantial part of the events underlying Plaintiff's claims occurred in Lancaster County, Pennsylvania and numerous defendants reside in Lancaster County, Pennsylvania. (Id. at 23-25 & n.2.)

On January 5, 2017, in lieu of filing objections, Plaintiff filed a motion for reconsideration arguing, inter alia, that the Report and Recommendation violated pro se fairness statutes, civil rights case law, and civil conspiracy case law. (Doc. No. 8.) On January 9, 2017, Magistrate Judge Carlson issued a second Report and Recommendation, recommending that this Court deny the motion for reconsideration. (Doc. No. 9.) Plaintiff supplemented the record with 198 pages of exhibits on January 9, 2017. (Doc. No. 10.) Thereafter, on January 26, 2017, Plaintiff filed a "notice of appeal" which consisted of a copy of the docket, the January 9, 2017 Report and Recommendation, and the January 3, 2017 Report and Recommendation. (Doc. No. 11.) The "notice of appeal" provides no grounds for which this Court could liberally construe as objections to either the January 3, 2017 Report and Recommendation or the January 9, 2017

¹ The Report and Recommendation also recommends denying Plaintiff's "amended" motion for preliminary injunction for failure to show a likelihood of success on the merits. (Doc. No. 7 at 27.)

Report and Recommendation. (Doc. No. 11.) **ACCORDINGLY**, upon independent review of the record and applicable law, on this 31st day of January 2017, **IT IS ORDERED THAT:**

1. Magistrate Judge Carlson's January 3, 2017 Report and Recommendation (Doc. No. 7), is **ADOPTED IN PART** to the extent that Magistrate Judge Carlson recommends, in the alternative, transferring the above-captioned action to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1406;
2. Magistrate Judge Carlson's January 9, 2017 Report and Recommendation (Doc. No. 9), is **ADOPTED**;
3. Plaintiff's motion for reconsideration (Doc. No. 8), is **DENIED**;
4. The above-captioned case is transferred to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1406 for further proceedings; and
5. The Clerk of Court is directed to close the above-captioned case.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania