

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

DONNA DEITRICK,	:	Civil Action No. 4:06-CV-1556
	:	
Plaintiff,	:	(Judge Brann)
	:	
v.	:	
	:	(Magistrate Judge Arbuckle)
MARK A. COSTA, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER
January 23, 2014

BACKGROUND:

The undersigned has given full and independent consideration to the July 18, 2013 report and recommendation of Magistrate Judge William I. Arbuckle, III. ECF No. 333. No objections have been filed.

Because this Court agrees with Judge Arbuckle’s thorough analysis and no objections have been filed despite more than ample time to do so, the Court will not rehash the sound reasoning of the magistrate judge and will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Judge William I. Arbuckle III's July 18, 2013 Report and Recommendation is ADOPTED in full. ECF No. 333.
2. Summary Judgment (ECF No. 193) is **GRANTED** with respect to:
 - A. Plaintiff's 42 U.S.C. § 1983 claims of unlawful arrest and unlawful detention (Count I of Plaintiff's Complaint, ECF No. 1) against Defendants Mark A. Costa, William Miner, Richard Nichols, and William Zelinski. These Defendants are entitled to qualified immunity on these issues and the claims against them are dismissed.
 - B. Plaintiff's § 1983 claims of excessive force (Count I) against Defendants Nichols and Zelinski. These Defendants are entitled to qualified immunity on this issue and the claims against them are dismissed.
 - C. Plaintiff's § 1983 claims of municipal liability (Counts II and III) against Defendant City of Shamokin. The claims are dismissed.
 - D. Plaintiff's state-law claims of false imprisonment and false

arrest (Count IV) against Defendants Costa, Miner, Nichols, and Zelinski. The claims are dismissed.

- E. Plaintiff's state-law claims of assault (Count V) against Defendants Costa, Miner and Nichols. These claims are dismissed.
- F. Plaintiff's state-law claims of battery (Count V) against Defendant Nichols. This claim is dismissed.
- G. Plaintiff's state-law claims of intentional infliction of emotional distress (Count VI) against Defendants Costa, Miner, Nichols, Robert Searls, and Zelinski. These claims are dismissed.
- H. Plaintiff's state-law claims of civil conspiracy (Count XII) against Defendants Costa, Miner, Nichols, Searls, and Zelinski. These claims are dismissed.
- I. Plaintiff's state-law conversion (Count XIII) and trespass to chattel claims (Count XIV) against Defendants Costa, Miner, Nichols, Searls, and Zalinski are dismissed.

3. Summary judgment is **DENIED** with respect to:

- A. Plaintiff's § 1983 claims of use of excessive force against Defendants Costa and Miner for the incident on August 16,

2004; and

B. Plaintiff's state-law battery claims against Defendants Costa and Miner for the same incident on August 16, 2004.

4. The action is remanded to Magistrate Judge Arbuckle for further proceedings.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge