

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

THOMAS D. CROCK,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-426
)	
CITY/TOWN, OR BORO OF MT.)	Chief Judge Gary L. Lancaster
LEBANON, PENNA; MT. LEBANON)	Magistrate Judge Cathy Bissoon
POLICE DEPT.; OFFICERS’ HENLEY,)	
DUBRO(W)SKI & SMITH,)	
)	
Defendants.)	

MEMORANDUM ORDER

On October 9, 2009, this case was referred to United States Magistrate Judge Cathy Bissoon for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On May 25, 2010, the magistrate judge issued a Report (Doc. 24) recommending that Defendants’ Motion to Dismiss (Doc. 16) be granted in part and denied in part. Service of the Report and Recommendation was made on the parties, and Plaintiff filed Objections on June 8, 2010. See Doc. 26.

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and Objections thereto, the following Order is entered:

AND NOW, on this 28 day of June, 2010, **IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss (Doc. 16) is **GRANTED IN PART AND DENIED IN PART** as follows:

(a) Defendants' Motion to Dismiss is **DENIED** as to Plaintiff's Section 1983 claim premised on the Fourth Amendment.

(b) Defendants' Motion to Dismiss is **GRANTED** and the following claims are **DISMISSED WITH PREJUDICE:**

- (i) the Section 1983 claim premised on the Fifth Amendment;
- (ii) the state law claims for malicious prosecution, abuse of process, intentional infliction of emotional distress, "willful misconduct - intentional torts," and "[k]nowing/intentional/[f]raudulent [m]isrepresentation"; and
- (iii) the claim for punitive damages.

(c) Defendants' Motion to Dismiss is **GRANTED** and the following claims are **DISMISSED WITHOUT PREJUDICE:**

- (i) the Section 1983 claim for malicious prosecution;
- (ii) the Section 1983 claim for municipal liability;
- (iii) the Section 1983 claim premised on the Sixth Amendment; and
- (iv) the Section 1985 claim.

The Report and Recommendation of Magistrate Judge Bissoon dated May 25, 2010 is hereby adopted as the opinion of the District Court.



Hon. Gary L. Lancaster
Chief United States District Judge

cc (via email):

Thomas D. Crock
Philip J. Sbrolla, Esq.
Jason A. Orr, Esq.