

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

TRACY LAVELL MATTHEWS,)
)
 Plaintiffs,)
)
 VS.)
)
 CITY OF MEMPHIS, et al.,)
)
 Defendants.)

No. 13-2195-JDT/cgc

ORDER ADOPTING REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE,
ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF’S MOTION TO ISSUE SUMMONS [DE# 5],
AND ORDER TO EFFECT SERVICE OF PROCESS

Magistrate Judge Charmaine G. Claxton has issued a report in this matter [DE# 7], recommending that Plaintiff’s claims of (1) assault and battery claim against Defendant City of Memphis; (2) false imprisonment claim against Defendant City of Memphis; (3) violations of the Fourth Amendment against Defendant City of Memphis and Defendant Officer Holmes in his individual capacity; and (4) negligence claim against Defendant Officer Holmes be allowed to go forward. The Magistrate Judge has recommended dismissal of the following claims under 28 U.S.C. § 1915: (1) Plaintiff’s negligence claim against Defendant City of Memphis; (2) Plaintiff’s assault and battery claim against Defendant Officer Holmes; (3) Plaintiff’s false imprisonment claim against Defendant Officer Holmes; and, (4) Plaintiff’s § 1983 claims against Defendant City of Memphis and Defendant Officer Holmes

in his individual capacity for violations of the Fifth, Eighth, and Fourteenth Amendments. Magistrate Judge Claxton also recommended that Plaintiff's claims against John Does 1-20 be dismissed and that Plaintiff's motion to issue summons [DE# 5] be granted in part and denied in part. Plaintiff has not filed objections to the report and recommendation.

Having reviewed the record and the controlling case law, the court agrees with Magistrate Judge's decision and ADOPTS the report and recommendation of Magistrate Judge Claxton for the reasons set forth in her order.

Order to Issue Service of Process

It is ORDERED that the Clerk shall issue process for Defendants City of Memphis and Officer C. Holmes and deliver said process to the marshal for service. Service shall be made on the individual defendants either by mail pursuant to Rule 4(e)(1) and Tenn. R. Civ. P. 4.03 and 4.04(10) or personally pursuant to Rule 4(e)(2) if mail service is not effective. All costs of service shall be advanced by the United States.

It is further ORDERED that Plaintiff shall serve a copy of every further document filed in this cause on the attorney for the defendants, or on defendants if they have no attorney. Plaintiff shall make a certificate of service on every document filed. Plaintiff shall promptly notify the Clerk of any change of address or whereabouts. Failure to comply with these requirements, or any other order of the Court, may result in the dismissal of this case without further notice.

IT IS SO ORDERED.

s/ James D. Todd _____
JAMES D. TODD
UNITED STATES DISTRICT JUDGE