

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CHRISTOPHER MCPHAUL,	§	
	§	
Plaintiff,	§	NO. 4:18-CV-690-ALM-KPJ
	§	
v.	§	
	§	
JASON KIMBROUGH, LAUREN SRALLA, JORGE OCASIO, MIKE CRAWFORD, HEATH MITCHELL, and CITY OF FRISCO,	§ § § § § § § §	
Defendants.	§	

MEMORANDUM OPINION AND ORDER

McPhaul filed suit against the Jason Kimbrough, Lauren Sralla, Jorge Ocasio, Mike Crawford, and Heath Mitchell (the “Individual Officers”) and City of Frisco, Texas (the “City”). See Dkt. 1. McPhaul brings the following claims against the Individual Officers: (1) excessive force, under 42 U.S.C. § 1983; (2) false arrest, under 42 U.S.C. § 1983; (3) negligence; (4) gross negligence; (5) assault and battery; and (6) intentional infliction of emotional distress. McPhaul brings the following claims against the City: failure to train, supervise, and discipline, under 42 U.S.C. § 1983. Plaintiff also seeks punitive damages. The Individual Officers and the City filed Motions to Dismiss (Dkts. 17, 18).

In Plaintiff’s response to Motions to Dismiss, Plaintiff requested leave to amend if the Court “finds that Plaintiff’s pleadings are in any way deficient.” See Dkts. 28 at 31; Dkt. 27 at 23–24. Accordingly, on April 9, 2019, the Court ordered Plaintiff to file an amended complaint by April 30, 2019, after identifying “obvious, material drafting errors.” See Dkt. 33. The Court further ordered the pending Motions to Dismiss (Dkts. 17, 18) be denied as moot, subject to reinstatement if no amended complaint was timely filed. See id. On May 27, 2019, the Individual Officers filed

a notice (the "Notice") asserting that no amended complaint was timely filed and requesting that the Motions to Dismiss be reinstated and granted. See Dkt. 34. On June 11, 2019, the Court ordered the Motions to dismiss be reinstated. See Dkt. 35. To date, no response has been filed by Plaintiff regarding the Notice or the April 9, 2019, Order directing Plaintiff to amend the complaint. Plaintiff has made no filings in this matter since January 17, 2019.

IT IS THEREFORE ORDERED that Plaintiff shall file a status report indicating why this matter should not be dismissed for want of prosecution or Amended Complaint **by July 10, 2019**. Failure to timely file a status report or Amended Complaint will result in dismissal. If dismissal of the suit is satisfactory to Plaintiff, no further action is necessary.

IT IS SO ORDERED.

SIGNED this 3rd day of July, 2019.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE