

NOT FOR PRINTED PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

WILLIAM D. MCCARTY	§	
VS.	§	CIVIL ACTION NO. 9:17-CV-182
CHARLES DOUGHERTY, ET AL.	§	

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ACCEPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff William D. McCarty, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Charles Dougherty and Ed Jones.

The Court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends granting defendants' motion to dismiss for failure to state a claim upon which relief may be granted.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed a notice of filing exhibits, which the Court liberally construes as objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Plaintiff states that he does not object to the dismissal of defendant Jones, but he objects to the dismissal of his claim that defendant Dougherty falsely

****NOT FOR PRINTED PUBLICATION****

arrested him. For the reasons stated in the Magistrate Judge's Report and Recommendation, plaintiff has not plausibly alleged that defendant Dougherty lacked probable cause to arrest him for public intoxication. *Arnold v. Williams*, 979 F.3d 262, 269 (5th Cir. 2020). As a result, the defendants are entitled to qualified immunity, and the Magistrate Judge correctly concluded that the defendants' motion to dismiss should be granted.

ORDER

Plaintiff's objections (docket entry #74) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (docket entry #73) is **ACCEPTED**. Defendants' motion to dismiss (docket entry #35) is **GRANTED**. A final judgment will be entered in accordance with the Magistrate Judge's recommendation.

So Ordered and Signed

Mar 12, 2021



Ron Clark
Senior Judge