

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

ROBERT STEVEN REITZ,)	
)	
Plaintiff,)	
)	
v.)	
)	
CITY OF ABILENE, et al.,)	
)	
Defendants.)	Civil Action No. 1:16-CV-181-C

ORDER

In the Findings, Conclusions and Recommendation filed May 25, 2017, the Magistrate Judge recommends as follows:

(1) the Court **DENY** Defendant City of Abilene’s Motion to Dismiss to the extent it seeks relief under Rule 12(b)(1);

(2) the Court **GRANT** Defendant City of Abilene’s Motion to Dismiss to the extent it seeks relief under Rule 12(b)(6), thereby dismissing all claims asserted against Defendant City of Abilene and terminating Defendant City of Abilene from this litigation;

(3) the Court **GRANT** the Motions to Dismiss filed by Defendants Wilson and Woods as to Plaintiff’s claims asserted against them in their official capacities and to the extent Defendant Woods seeks dismissal of Plaintiff’s excessive use of force claim asserted against Woods in his individual capacity;

(4) all the above-mentioned dismissals be **WITH PREJUDICE** and without leave to amend;

(5) the Court otherwise **DENY** the Motions to Dismiss filed by Defendants Wilson and Woods beyond the extent of relief mentioned above.¹

The Court has carefully reviewed the Report and Recommendation and no party filed any objection. The Court finds that the findings and conclusions of the Magistrate Judge are correct and **ADOPTS** them as the findings and conclusions of the Court.

The above-styled and -numbered civil action is returned to the docket of the Honorable E. Scott Frost, United States Magistrate Judge, for case management and all further proceedings consistent with Second Amended Special Order No. 3-301.

SO ORDERED this 17 day of July, 2017.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE

¹The denial of relief sought by Defendants Woods and Wilson in the remainder of their Motions to Dismiss is not meant to be a ruling on the merits of the qualified immunity defense as it may relate to later-filed motions for summary judgment. Simply, as stated by the Magistrate, the pleading burden has been met by Plaintiff at this time on those issues and his factual allegations must be given deference in a Rule 12(b)(6) analysis. Thus, Plaintiff's claims against Defendants Woods and Wilson in their individual capacities remains pending for allegedly (1) providing false or incorrect information to secure an arrest, indictment, and prosecution, (2) improperly seizing and arresting Plaintiff, and (3) retaliating against Plaintiff in violation of his First Amendment rights to free speech. To the extent the Motions sought relief under Rule 12(b)(1), they are denied as recommended by the Magistrate.