UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RONALD SMITH,

Plaintiff,

v.

ROBERT LOCKER, *et al.*,

Defendants.

CIVIL NO. SA-23-CV-881-OLG

ORDER

The Court has considered United States Magistrate Judge Elizabeth S. Chestney's ("Judge Chestney") Report and Recommendation (the "Recommendation") (Dkt. No. 36), filed on November 5, 2024, concerning Defendants Robert Locker ("Locker"), Hunter Saenz ("Saenz"), and Jimmy Gonzalez's ("Gonzalez") (collectively, "Defendants") Motion for Summary Judgment (the "Motion for Summary Judgment") (Dkt. No. 31). In the Recommendation, Judge Chestney recommended that the Motion for Summary Judgment be granted in part and denied in part. Dkt. No. 36 at 1, 21–22. Plaintiff Ronald Smith ("Plaintiff") and Defendants each filed objections to the Recommendation. *See* Dkt. Nos. 38–39.

When a party objects to a Magistrate Judge's report and recommendation, the Court conducts a *de novo* review as to those portions of the report and recommendation to which an objection is made. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Frivolous, conclusory, or general objections need not be considered by the district court. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987). Any portions of the Magistrate Judge's finding or recommendation that were not objected to are reviewed for clear error. *Wilson*, 864 F.2d at 1221.

The Court has conducted a *de novo* review of those portions of the Recommendation

subject to the objections and is of the opinion that the Recommendation is correct, and that the objections are without merit as to the ultimate findings of the Magistrate Judge. Accordingly, the objections are **OVERRULED**, the Recommendation (Dkt. No. 36) is **ACCEPTED** and, for the reasons set forth therein, the Motion for Summary Judgment (Dkt. No. 31) is **GRANTED IN PART** and **DENIED IN PART**.

IT IS THEREFORE ORDERED that Plaintiff's malicious prosecution and false arrest claims are **DISMISSED WITH PREJUDICE**. Only Plaintiff's excessive force claim against Saenz and Gonzalez will proceed to trial.

IT IS SO ORDERED.

SIGNED this 21 day of November, 2024.

ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE