
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BUDDIE A. WILKERSON,

Plaintiff,

vs.

**STATE OF UTAH DEPARTMENT OF
HUMAN SERVICES, and SALT LAKE
CITY POLICE DEPARTMENT,**

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:13CV956 DAK

This matter is before the court on the Magistrate Judge's Report and Recommendation, which was signed and entered on November 13, 2013.¹ On October 21, 2013, Plaintiff filed his Complaint, along with a Motion for Service of Process.² On October 23, this court referred the case to a Magistrate Judge under 28 U.S.C. § 636(b)(1)(B).³ On October 25, 2013, Plaintiff filed a "Motion: to obtain court order for any video and or audio tapes."⁴

On November 13, 2013, the Magistrate Judge issued a Report and Recommendation, recommending that the court deny the Motion for service of process and that the court dismiss

¹ Docket No. 9.

² Docket Nos. 3, 4.

³ Docket No. 5.

⁴ Docket No. 8.

Plaintiff's Complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii).⁵ On November 21, 2013, Plaintiff timely filed an Objection to the Report and Recommendation.⁶

Under 28 U.S.C. § 636(b)(1)(B), a district court must make *de novo* determinations as to a magistrate judge's recommendations if a party objects to the magistrate's recommendations. *See Phillips v. Beierwaltes*, 466 F.3d 1217, 1222 (10th Cir. 2006). Accordingly, the court has reviewed the entire record in this case, including Plaintiff's Complaint, the Magistrate Judge's Report and Recommendation, and Plaintiff's Objection. Having made a *de novo* review, the court accepts in whole the findings and recommendations made by the Magistrate Judge and therefore adopts the Report and Recommendation in its entirety.

As stated by the Magistrate Judge, "[t]o remedy the deficiencies noted above, Plaintiff's amended complaint should name all applicable defendants, identify the legal rights such defendants violated, and specify the underlying facts that demonstrate such violations."⁷ *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007) ("[T]o state a claim in federal court, a complaint must explain what each defendant did to [the plaintiff]; when the defendant did it; how the defendant's action harmed [the plaintiff]; and, what specific legal right the plaintiff believes the defendant violated.").

⁵ Docket No. 9.

⁶ Docket No. 10.

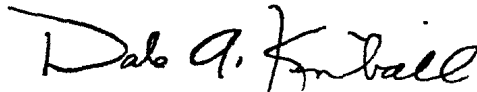
⁷ Docket No. 9 at page 5 (internal citations omitted).

CONCLUSION

Accordingly, the court hereby APPROVES and ADOPTS the Magistrate Judge's Report and Recommendation. The Complaint is DISMISSED without prejudice, and Plaintiff's Motion to Appoint Counsel [Docket No. 4] is DENIED without prejudice to renew if Plaintiff files an Amended Complaint. Plaintiff's "Motion: to obtain court order for any video and or audio tapes" {Docket No. 8] is also DENIED without prejudice to renew at a later date, if Plaintiff is able to state a claim. Plaintiff may file an Amended Complaint no later than fourteen (14) days after receiving a copy of this Order.

DATED this 27th day of January, 2014.

BY THE COURT:



DALE A. KIMBALL
United States District Judge