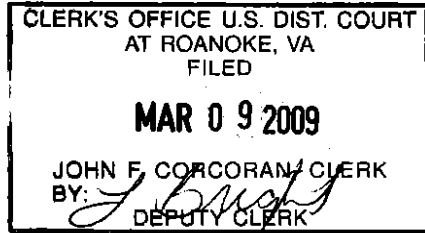


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



JONATHAN LEE GRAHAM,)
)
 Plaintiff,)
)
 v.)
)
 CHIEF DEPUTY KEITH DUNAGAN, et al.)
)
 Defendants.)

Case No. 7:08CV00260

FINAL JUDGMENT AND ORDER

By: Hon. Glen E. Conrad
United States District Judge

In accordance with the memorandum opinion filed this day, it is now

ADJUDGED AND ORDERED

as follows:

1. The Report and Recommendation of the magistrate judge is **ADOPTED** in part;
2. Plaintiff's motion for voluntary dismissal is **GRANTED** as to his claims of false arrest and malicious prosecution, and **DENIED** as to his remaining claims;
3. Plaintiff's claims for false arrest and malicious prosecution are **DISMISSED** without prejudice;
4. In the absence of any objections to the magistrate judge's recommendation for dismissal with prejudice as to the remaining Fourth Amendment claims, defendants' dispositive motions as to these claims shall be, and hereby are, **GRANTED**;
5. Plaintiff's Eighth Amendment claims and his Fourth Amendment excessive force claims shall be, and hereby are, **DISMISSED** with prejudice;
6. Defendants' motion for dismissal on abstention grounds is **DENIED** as moot;
7. Plaintiff's motion for preparation of a transcript of the proceedings before the magistrate judge shall be, and hereby is, **DENIED** at this time; and
8. This case shall be, and hereby is, stricken from the active docket of this court.

The plaintiff is advised that he may appeal the judgment of this court pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure by filing a notice of appeal with this court within 30

days of the date of entry of this final judgment and order, or within such extended period as the court may grant pursuant to Rule 4(a)(5).

The Clerk is directed to send certified copies of this judgment and order to the plaintiff and to counsel for the defendants.

ENTER: This 9th day of March, 2009.



United States District Judge