

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

John Allen Klebe,

Plaintiff,

-vs-

City of West Fargo, Skyler Dutton,
West Fargo Police Department Officer, in
his individual capacity, James P. Baluik,
West Fargo Police Department Officer, in
his individual capacity, Ryan M. Woullet,
West Fargo Police Department Officer, in
his individual capacity, Joseph D.
Birrenkott, West Fargo Police Department
Officer, in his individual capacity,
Gerald K. Boyer, West Fargo Police
Department Officer, in his individual
capacity, Derek A. Cruft, West Fargo Police
Department Officer, in his individual
capacity, Timothy A. Runcorn, West Fargo
Police Department Officer, in his individual
capacity, Trent J. Stanton, West Fargo
Police Department Officer, in his individual
capacity, Gregory C. Warren,

Defendants.

Case No. 3:14-cv-45

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

The court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that the complaint against the City of West Fargo, Jason Baluik, Tim Runcorn, Trent Stanton, Derek Cruft, Jerry Boyer, and Gregory Warren be dismissed without prejudice and that the complaint against Skyler Dutton, Ryan Woullet, and Joe Birrenkott be dismissed without prejudice insofar as it alleges a failure to immobilize Klebe's C-spine because Klebe has not

alleged any use of force.¹ The court has received no objections to the Report and Recommendation within the time frame prescribed.

The court has reviewed the Report and Recommendation as well as the pleadings in this case and finds the magistrate judge's analysis is appropriate. The court hereby **ADOPTS** the Report and Recommendation in its entirety. For the reasons stated therein, the City of West Fargo, Jason Baluik, Tim Runcorn, Trent Stanton, Derek Cruff, Jerry Boyer, and Gregory Warren are dismissed without prejudice from this action. In addition, the claim alleged against Skyler Dutton, Ryan Woullet, and Joe Birrenkott for failure to prevent a neck injury is also dismissed without prejudice, as Klebe has failed to allege any force was used by these officers, let alone an excessive use of force.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 30th day of April, 2015.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court

¹ Doc. #26.