

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TYRONE HADLEY, an individual,

CV 09-022-ST

Plaintiff,

OPINION AND ORDER

v.

CITY OF BEAVERTON, a municipal
corporation, and
CHRISTOPHER FREEMAN, an individual,

Defendant.

REDDEN, Judge:

On February 16, 2010, Magistrate Judge Janice Stewart filed her Findings and Recommendation (doc. 65 and 66) that the court GRANT defendants' motion for summary judgment (doc. 33) as to: (1) the portion of plaintiff's First Claim (42 U.S.C. § 1983) alleging deprivation of the rights of bodily integrity, to be free from excessive force, and to travel under

the Fourteenth Amendment; (2) plaintiff's Second Claim against defendant Christopher Freeman; and (3) Count I (Negligence) and Count IV (Negligent Retention, Supervision, and Training) of the Second Claim against defendant City of Beaverton. In addition, Magistrate Judge Stewart recommended that the court DENY defendants' motion for summary judgment as to: (1) the portion of plaintiff's First Claim (42 U.S.C. § 1983) alleging deprivation of the rights to be free of unreasonable detention, arrest, and unreasonable seizure under the Fourth Amendment; and (2) Count II (Assault and Battery) and Count III (False Arrest/False Imprisonment) of the Second Claim against defendant City of Beaverton.

The matter is now before this court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rules of Civil Procedure 72(b) and 54(d)(2)(D). The district court is not bound by the recommendations of the magistrate judge, and "may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). When either party timely objects to any portion of the magistrate's Findings and Recommendation, the district court must conduct a de novo review of those portions of the magistrate's report. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); McDonnell Douglas Corp. v. Commodore Bus. Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). The district court is not, however, required to review the factual and legal conclusions to which the parties do not object. Thomas v. Arn, 474 U.S. 140, 149 (1985); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

The parties timely filed objections to Magistrate Judge Stewart's Findings and Recommendation. I have, therefore, given those portions of the Findings and Recommendation a de novo review. I agree with Magistrate Judge Stewart's analysis and conclusions.

Accordingly, I ADOPT Magistrate Judge Stewart's Findings and Recommendation (doc. 65 and 66) in its entirety. Defendants' Motion for Summary Judgment (doc. 33) is GRANTED in part, and DENIED in part, as set forth in Magistrate Judge Stewart's Findings and Recommendation.

IT IS SO ORDERED.

DATED this 24th day of March, 2010.

/s/ James A. Redden
James A. Redden
United States District Judge