

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHRISTOPHER KNECHT,	:	NO. 1:12-CV-00763
	:	
Plaintiff,	:	
	:	
vs.	:	ORDER
	:	
CITY OF CINCINNATI, et. al.,	:	
	:	
Defendants.	:	
	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 21), Plaintiff's Objection (doc. 23), and the City's Reply (doc. 24). For the reasons indicated herein, the Court declines to adopt the Magistrate Judge's Report and Recommendation and REMANDS this matter for further consideration.

I. Background

Plaintiff brings this pro se action under state and federal law alleging civil rights violations by the City of Cincinnati and Margo Springs (doc. 14). Plaintiff essentially contends that Defendants, who maintain the database which contains his criminal history, have reported his criminal history inaccurately a number of times (Id.). As a result, Plaintiff alleges he was denied employment, denied an apartment lease, denied social service benefits, and subjected to heightened police

interaction (Id.).

II. The Magistrate Judge's Report and Recommendation and the Parties' Responses

The Magistrate Judge issued a Report and Recommendation on July 26, 2013, regarding the City's motion to dismiss (doc. 17), indicating that such motion be granted and this case be terminated on the docket (doc. 21). The Magistrate Judge found no basis for subject-matter or diversity jurisdiction, reasoning that even if Plaintiff has invoked jurisdiction, his Complaint fails to state any federal claim upon which relief may be granted (Id.). The Magistrate Judge further found Defendant Springs entitled to qualified immunity, and the City entitled to state tort immunity (Id.).

Plaintiff objects to the Magistrate Judge's Report and Recommendation on the basis that it addressed his original Complaint, but offered no analysis of his fourth cause of action, as articulated in his Amended Complaint (doc. 14). In such cause of action Plaintiff alleges "the Due Process Clause of the Fourteenth Amendment to the United States Constitution entitles Plaintiff to notice and a hearing before adverse action is taken against him affecting his liberty, and this Court should declare the rights of plaintiff and all others similarly situated as it relates to criminal records practices by defendants" (Id.). Plaintiff essentially requests declaratory judgment that he has a protected liberty interest in having accurate, complete criminal

history transcripts maintained, compiled, prepared, and disseminated against him by defendants as authorized by Ohio law (Id.).

The City responds that because the Magistrate Judge referenced Plaintiff's Amended Complaint in footnote one of the Report and Recommendation, the Magistrate Judge's analysis covered the Amended Complaint and should be affirmed (doc. 24). The City essentially characterizes Plaintiff's objection as "broad-sweeping" and lacking in requisite specificity (Id.).

III. Discussion

Having reviewed this matter, the Court finds that out of an abundance of caution, Plaintiff's Complaint merits further review. The Court does not find an outright dismissal of Plaintiff's action in the interests of justice where only cursory analysis of his due process claim has been granted. Although the City indicates the Magistrate Judge referenced Plaintiff's Amended Complaint in a footnote, the Court's review of the Report and Recommendation yields nothing regarding Count Four of the Complaint. The City contends Plaintiff's objection is lacking in specificity; one could argue similarly regarding the City's attack on Plaintiff's due process claim.

As such, the Court finds appropriate a remand to the Magistrate Judge for further consideration of Plaintiff's Amended Complaint. Accordingly, the Court REJECTS the Magistrate Judge's Report and Recommendation (doc. 21) to the extent that it REMANDS

this matter to the Magistrate Judge for further consideration of Plaintiff's Amended Complaint (doc. 14).

SO ORDERED.

DATED: August 27, 2013

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge