

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

Marquis H. Johnson v. James Petrucci, et al.

Johnson v. Petrucci, Civil Action No. 3:25-CV-00328 · No. 3:25-CV-00328 · Decided February 25, 2026

SUMMARY

The United States District Court for the Middle District of Pennsylvania overruled objections to a magistrate judge’s report and recommendation and adopted the report in its entirety. The court held that the pro se plaintiff’s allegations concerning a forceful body-cavity search were properly construed as an excessive-force claim under the Fourth Amendment, rather than a false-arrest claim. The court denied the moving defendants’ motion to dismiss and rejected their qualified-immunity arguments.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Karoline Mehalchick
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	February 25, 2026
DOCKET	3:25-CV-00328
DISPOSITION	other
PROCEDURAL POSTURE	Review of a magistrate judge's report and recommendation concerning defendants' motion to dismiss and objections to that report and recommendation.
STANDARD OF REVIEW	The district court conducted de novo review of the challenged portions of the magistrate judge's report and recommendation because timely objections were filed, while recognizing that the extent of review is within the district judge's discretion.
PRECEDENTIAL VALUE	Unpublished district court memorandum; generally nonprecedential and persuasive only.
PARTIES	Marquis H. Johnson v. James Petrucci, Detective Zach, John Munely

TOPICS

- motions to dismiss
- qualified immunity
- civil rights
- constitutional law
- civil procedure

PRACTICE AREAS

Civil rights

Federal civil procedure

Constitutional law

QUESTIONS PRESENTED

1. Whether the amended complaint should be liberally construed as asserting an excessive-force claim rather than a false-arrest claim.
2. Whether the moving defendants' qualified-immunity argument could support dismissal when their original motion was based on the elements of false arrest rather than the excessive-force claim actually alleged.
3. Whether a new qualified-immunity argument raised for the first time in objections to the magistrate judge's report and recommendation was waived.
4. Whether the amended complaint sufficiently stated a Fourth Amendment excessive-force claim.

HOLDINGS

1. The amended complaint, liberally construed, alleged an excessive-force claim arising from an unreasonable seizure rather than a false-arrest claim based on arrest without probable cause.
2. The amended complaint sufficiently stated a Fourth Amendment excessive-force claim by alleging that defendants seized Johnson and used force that a reasonable officer would find unreasonable under the circumstances.
3. The moving defendants waived their new qualified-immunity argument because they raised it for the first time in their objections to the magistrate judge's report and recommendation.
4. The motion to dismiss could not be granted on the defendants' qualified-immunity arguments because those arguments addressed a false-arrest claim that Johnson did not bring, and the new argument raised in the objections was waived; even if considered, it misunderstood the excessive-force theory.

KEY QUOTATIONS

“Courts ‘liberally construe [pro se] pleadings, and . . . apply the applicable law, irrespective of whether the pro se litigant has mentioned it by name.’” (Doc. 45, at 9-10)

“The use of excessive force is itself an unlawful seizure under the Fourth Amendment.” (Doc. 45, at 11-12)

“The Third Circuit has long held that an otherwise lawful seizure can still violate the Fourth Amendment where the officers use such ‘excessive ‘substantial force’” that the seizure is conducted in an “unlawful manner.”” (Doc. 45, at 12)

FACTUAL BACKGROUND

Johnson alleged that defendants detained him while he was leaving a friend's house and forcefully searched his anal cavity, removing a bloodied bag. He alleged that the defendants used brute force, caused bleeding and severe physical pain, and inflicted serious psychological injuries. The court treated these allegations as true for purposes of the motion to dismiss.

PROCEDURAL HISTORY

Johnson filed the action on February 25, 2025, and filed an amended complaint on April 23, 2025. Defendants Munely and Zach moved to dismiss. Magistrate Judge Martin C. Carlson recommended denying that motion, and the moving defendants objected. The district court overruled the objections, adopted the report and recommendation in its entirety, and denied the moving defendants' motion to dismiss.

DISPOSITION

other

CASES CITED

- Brown v. Astrue, 649 F.3d 193, 195 (3d Cir. 2011)
- Goney v. Clark, 749 F.2d 5, 6-7 (3d Cir. 1984)
- Rahman v. Gartley, No. CV 3:23-363, 2024 WL 555894, at *1 (M.D. Pa. Feb. 12, 2024)
- United States v. Raddatz, 447 U.S. 667, 676 (1980)
- Dluhos v. Strasberg, 321 F.3d 365, 369 (3d Cir. 2003)
- Bush v. City of Philadelphia, 367 F. Supp. 2d 722, 725 (E.D. Pa. 2005)
- James v. City of Wilkes-Barre, 700 F.3d 675, 680 (3d Cir. 2012)
- Abraham v. Raso, 183 F.3d 279, 288 (3d Cir. 1999)
- McIntosh v. Crist, No. CIV.A. 3:13-103, 2015 WL 418982, at *9 (W.D. Pa. Feb. 2, 2015)
- McNeil v. City of Easton, 694 F. Supp. 2d 375, 392 (E.D. Pa. 2010)
- Nelson v. Jashurek, 109 F.3d 142, 145-146 (3d Cir. 1997)
- Rosembert v. Borough of E. Lansdowne, 14 F. Supp. 3d 631, 637, 640 (E.D. Pa. 2014)
- In re National Collegiate Student Loan Trusts 2003-1, 2004-1, 2004-2, 2005-1, 2005-2, 2005-3, 971 F.3d 433, 444 (3d Cir. 2020)
- Hamill v. Twin Cedars Senior Living, LLC, No. 3:20-CV-00231, 2024 WL 1118977, at *3 (M.D. Pa. Mar. 14, 2024)

OPINION

Petrucci

PER CURIAM.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

MARQUIS H. JOHNSON,

CIVIL ACTION NO. 3:25-CV-00328

Plaintiff,

v. (MEHALCHICK, J.)

JAMES PETRUCCI, et al., Defendants.

MEMORANDUM

On February 25, 2025, pro se plaintiff Marquis H. Johnson (“Johnson”) initiated this action by filing a complaint. (Doc. 1). On April 23, 2025, Johnson filed the operative amended complaint against Defendants James Petrucci (“Petrucci”), Detective Zach (“Zach”), and John Munely (“Munely”) (collectively, “Defendants”).¹ (Doc. 13). On August 24, 2025, Munely and Zach (together, “Moving Defendants”) filed a motion to dismiss. (Doc. 28). On January 22, 2026, Magistrate Judge Martin C. Carlson filed a report and recommendation recommending that the Court deny Moving Defendants’ motion. ² (Doc. 45). On February 5, 2026, Moving Defendants filed an objection to the report and recommendation along with a brief in support. (Doc. 47; Doc. 48). Based on the Court’s review of the relevant filings along with the report, Moving Defendants’ objection (Doc. 47) is overruled, and the report (Doc. 45) will be adopted in its entirety. ¹ The amended complaint also named Defendant Andrew Layton Krowiak (“Krowiak”), but the Court dismissed Krowiak from the case on June 9, 2025. (Doc. 17). ² Also pending before the Court is Petrucci’s motion to dismiss. (Doc. 32). However, Judge Carlson’s report only addresses Moving Defendants’ motion. (Doc. 45).

I. BACKGROUND AND PROCEDURAL HISTORY

The following background is taken from the amended complaint, and for the purposes of the instant motion, is taken as true. (Doc. 13). On April 11, 2024, Johnson was leaving a friend’s house when Defendants detained him. (Doc. 13, at 2-3). Defendants forcefully searched Johnson’s anal cavity and removed a bag with blood on it. (Doc. 13, at 3-4). According to Johnson, Defendants did not just perform a cavity search but rather sexually assaulted him and caused him severe physical and psychological injuries. (Doc. 13, at 3-4). Moving Defendants move to dismiss Johnson’s claims, arguing that they are entitled to qualified immunity because Johnson fails to state a claim for false arrest and thus, does not sufficiently plead that Moving Defendants violated any well-established constitutional rights. (Doc. 30, at 9-10). On January 22, 2026, Judge Carlson filed the report and recommendation recommending that the Court deny Moving Defendants’ motion to dismiss. (Doc. 45).

II. LEGAL STANDARD

“A district court may ‘designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition’ of certain matters pending before the court.” *Brown v. Astrue*, 649 F.3d 193, 195 (3d Cir. 2011) (quoting 28 U.S.C. § 636(b)(1)(B)). Within fourteen days of being served a Report and Recommendation, “any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.” 28 U.S.C. § 636(b)(1). When a party timely files objections, the district court is to conduct a de novo review of the challenged portions of the Magistrate Judge’s findings unless the objection is “not timely or not specific.” *Goney v. Clark*, 749 F.2d 5, 6–7 (3d Cir.1984); 28 U.S.C. § 636(b)(1). The Court may then “accept, reject, or modify, in whole or in part, the findings and recommendations.” 28 U.S.C. § 636(b)(1). “Although

the standard is *de novo*, the extent of review is committed to the sound discretion of the district judge, and the court may rely on the recommendations of the magistrate judge to the extent it deems proper.” *Rahman v. Gartley*, No. CV 3:23-363, 2024 WL 555894, at *1 (M.D. Pa. Feb. 12, 2024) (citing *United v. Raddatz*, 447 U.S. 667, 676 (1980)).

III.DISCUSSION

In the report, Judge Carlson concluded that the Court must liberally construe Johnson’s *pro se* amended complaint. (Doc. 45, at 9-10). Liberally construing the amended complaint, Judge Carlson determined that Johnson alleges an excessive force claim, and not a false arrest claim, as Moving Defendants assert. (Doc. 45, at 10). Judge Carlson recommended that the Court deny Moving Defendants’ motion to dismiss because their arguments are based on Johnson failing to establish a violation of his right to be free from false arrest, when Johnson did not bring a false arrest claim. (Doc. 45, at 9-12). Judge Carlson further found that Johnson sufficiently stated a claim for excessive use of force in violation of the Fourth Amendment because Johnson alleges that a seizure occurred which a reasonable officer would deem unreasonable under the circumstances. (Doc. 45, at 11-12). Moving Defendants aver the Court should reject the report because Johnson cannot establish “that a manual body cavity search incident to a felony arrest is prohibited by clearly established Supreme Court or Third Circuit precedent” and thus, they are entitled to qualified immunity. (Doc. 48, at 7). The Court agrees with Judge Carlson that Moving Defendants’ motion incorrectly argues that the amended complaint involves a false arrest claim when it involves an excessive force claim. (Doc. 30, at 9-10; Doc. 45, at 9-10). Courts “liberally construe [*pro se*] pleadings, and . . . apply the applicable law, irrespective of whether the *pro se* litigant has mentioned it by name.” *Dluhos v. Strasberg*, 321 F.3d 365, 369 (3d Cir. 2003); see also *Bush v. City of Philadelphia*, 367 F. Supp. 2d 722, 725 (E.D. Pa. 2005). A plaintiff states a false arrest claim where the plaintiff alleges “(1) that there was an arrest; and (2) that the arrest was made without probable cause.” *James v. City of Wilkes-Barre*, 700 F.3d 675, 680 (3d Cir. 2012). By contrast, “[t]o state a claim for excessive force as an unreasonable seizure under the Fourth Amendment, a plaintiff must show that a ‘seizure’ occurred and that it was unreasonable.” *Abraham v. Raso*, 183 F.3d 279, 288 (3d Cir. 1999); see *McIntosh v. Crist*, No. CIV.A. 3:13-103, 2015 WL 418982, at *9 (W.D. Pa. Feb. 2, 2015). “The use of excessive force is itself an unlawful seizure under the Fourth Amendment.” *McNeil v. City of Easton*, 694 F. Supp. 2d 375, 392 (E.D. Pa. 2010). The key issue in excessive use of force claims is not whether an officer could have legally conducted a seizure or used any force, but rather whether the officer used force a reasonable officer would find unreasonable under the circumstances. *Nelson v. Jashurek*, 109 F.3d 142, 145 (3d Cir. 1997) (noting that a plaintiff may state a claim for unreasonable use of force by alleging an officer “effectuated a lawful arrest in an unlawful manner” due to the “substantial force” used); see also *Rosembert v. Borough of E. Lansdowne*, 14 F. Supp. 3d 631, 637 (E.D. Pa. 2014) (finding that a plaintiff stated a claim for excessive use of force by alleging that officers unnecessarily beat him while arresting him for a crime he was ultimately convicted of). While

Johnson's pro se complaint does not clearly identify a legal theory, the Court must liberally construe the central allegations of the complaint and apply the applicable law. (Doc. 13); see *Dluhos*, 321 F.3d at 369; see also *Bush*, 367 F. Supp. 2d at 725. The central allegations in the amended complaint concern Defendants allegedly violating Johnson's constitutional rights by holding him down and "sodomiz[ing]" him with "brute force." (Doc. 13, at 3). Johnson alleges that the interaction caused him intense physical pain and psychological harm. (Doc. 13, at 4). These allegations resemble an excessive use of force claim rather than a false arrest claim because Johnson alleges Defendants violated his rights by using unreasonable force, not by arresting him without probable cause. Compare *Rosembert*, 14 F. Supp. 3d at 637 (noting that an excessive use of force claim involves allegations that an officer's use of force was so substantial that it was unreasonable, regardless of whether some force would have been justified); with *James*, 700 F.3d at 680 (noting that a false arrest claim involves arrest without probable cause). The Court agrees with Judge Carlson's recommendation to deny Moving Defendants' motion to dismiss because Moving Defendants' motion to dismiss is premised on Johnson failing to meet the pleading requirements for a claim he didn't bring. (Doc. 30, at 9-10; Doc. 45, at 9-10). In their objection, Moving Defendants abandon their previous false arrest arguments. (Doc. 48, at 7). Their objection fails for two reasons. First, "[a]rguments not presented to a magistrate judge and raised for the first time in objections to the [magistrate judge's] recommendations are deemed waived." *In re Nat'l Collegiate Student Loan Trusts 2003- 1, 2004-1, 2004-2, 2005-1, 2005-2, 2005-3*, 971 F.3d 433, 444 (3d Cir. 2020); see *Hamill v. Twin Cedars Senior Living, LLC*, No. 3:20-CV-00231, 2024 WL 1118977, at *3 (M.D. Pa. Mar. 14, 2024) (rejecting an objection to a report and recommendation based off of new arguments not presented to the magistrate judge). Moving Defendants' original motion to dismiss, as presented to Judge Carlson, argued that "[Moving Defendants] are entitled to qualified immunity in this case because [Johnson] cannot demonstrate by his mere allegations a violation of his constitutional rights because probable cause existed to arrest the Plaintiff based upon his own criminal activity." (Doc. 30, at 10). Moving Defendants now argue that they are entitled to qualified immunity because Johnson cannot prove that "a manual body cavity search incident to a felony arrest is prohibited by clearly established Supreme Court or Third Circuit precedent." (Doc. 48, at 7). This is a new argument, not presented to Judge Carlson, that should be deemed waived. See *Nat'l Collegiate Student Loan Trusts*, 971 F.3d at 444; see also *Hamill*, 2024 WL 1118977, at *3. However, even if the Court considers Moving Defendants' new argument, their motion should be denied because they continue to misunderstand the nature of Johnson's claims. Johnson not only alleges that Moving Defendants conducted a cavity search but alleges that Moving Defendants applied such "brute force" that he needed medical attention, was bleeding, and was left with severe physical and psychological injuries. (Doc. 13, at 3-4). The Third Circuit has long held that an otherwise lawful seizure can still violate the Fourth Amendment where the officers use such "excessive 'substantial force'" that the seizure is conducted in an "unlawful manner." *Nelson*, 109 F.3d at 146. Thus, the relevant issue is not whether the officers

could conduct a cavity search incident to arrest, but rather whether the officers used unreasonable force. See Nelson, 109 F.3d at 146; see also Rosembert, 14 F. Supp. 3d at 640. Accordingly, the Court OVERRULES Moving Defendants' objection (Doc. 47) and ADOPTS the report and recommendation IN ITS ENTIRITY.

IV. CONCLUSION

For the foregoing reasons, the Court agrees with the report's sound reasoning and discerns no error of law. (Doc. 45). Accordingly, the report and recommendation (Doc. 45) is ADOPTED IN ITS ENTIRETY as the opinion of the Court. Moving Defendants' objection is OVERRULED. (Doc. 47). Moving Defendants' motion to dismiss (Doc. 28) is DENIED. An appropriate Order follows.

Dated: February 25, 2026 s/ Karoline Mehalchick

KAROLINE MEHALCHICK

United States District Judge