

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KRYSTAL JASMIN,

Plaintiff,

v.

SANTA MONICA POLICE
DEPARTMENT, et al.,

Defendants.

NO. CV 16-06999-FMO (JDE)

ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the relevant
pleadings in this action, including:

- 20 a) The operative Second Amended Complaint (Dkt. 29, “SAC”) filed by
21 Plaintiff Krystal Jasmin (“Plaintiff”) against the City of Santa
22 Monica, the Santa Monica Police Department, Officer Cochran,
23 Officer Jauregui, Los Angeles County, the Los Angeles County
24 Department of Children and Family Services, Jeweutt Bright,
25 Stephanie Rush, Jamie Hein, and DOES 1-10;
- 26 b) The prior order dismissing all claims in the SAC except Claim Three
27 against defendants Cochran and Jauregui (collectively, “Moving
28 Defendants”) (Dkt. 42, “Prior Dismissal Order”);

- 1 c) Plaintiff's one-page "Request for Consideration" (Dkt. 46);
- 2 d) Plaintiff's "Evidence to Reinstate Defendants and Claims Based on
- 3 New Discovery Evidence" (Dkt. 55, "Second Request");
- 4 e) Plaintiff's "Request to file Third Amended Complaint (Civil Rights)
- 5 Pursuant to 42 U.S.C. § 1983" (Dkt. 60, "Third Request"), with a
- 6 proposed Third Amended Complaint ("TAC");
- 7 f) Moving Defendants' Opposition to Plaintiff's Second Request (Dkt.
- 8 62) and Objections to Plaintiff's Third Request (Dkt. 63), and
- 9 Plaintiff's Response thereto (Dkt. 65);
- 10 g) Plaintiff's Motion for Summary Judgment based upon the proposed
- 11 TAC (Dkt. 59, "Plaintiff's Motion"), Plaintiff's supporting
- 12 declaration (Dkt. 72), and Moving Defendants' Objections to
- 13 Plaintiff's Motion (Dkt. 64);
- 14 h) Moving Defendants' Motion for Summary Judgment as to Claim
- 15 Three and supporting papers (Dkt. 67, "Moving Defendants'
- 16 Motion"), Plaintiff's Objection to Moving Defendants' Motion (Dkt.
- 17 76) and Moving Defendants' Reply (Dkt. 78);
- 18 i) The Report and Recommendation of the assigned Magistrate Judge
- 19 (Dkt. 80, "R&R");
- 20 j) The Objection to the R&R filed by Plaintiff (Dkt. 82);
- 21 k) The "Motion to Set Aside Default Judgment" filed by Plaintiff after
- 22 the issuance of the R&R (Dkt. 83);
- 23 l) The "Motion for Summary Judgment" filed by Plaintiff after the
- 24 issuance of the R&R, which references objections to the R&R (Dkt.
- 25 84, "Second Belated Motion for Summary Judgment");
- 26 m) Plaintiff's "Declaration in Support of Second Amended Complaint,
- 27 MSJ and Proposed Judgement for SAC" (Dkt. 85) and "Additional
- 28 Disclosures" (Dkt. 87);

- 1 n) Two "Statements of Concern" filed by Plaintiff (Dkt. 90, 92) and a
- 2 "Scan of Omitted Pages" (Dkt. 93); and
- 3 o) Moving Defendants' "Response to Plaintiff's Objections to Report
- 4 and Recommendation of United States Magistrate Judge and
- 5 Plaintiff's Request for Hearing" (Dkt. 97).

6 With respect to Plaintiff's filings set forth above that were filed after the
7 issuance of the R&R (Dkt. 82-85, 87, 90, 92, 93), the Court treats those filings
8 as collectively reflecting Plaintiff's Objections to the R&R. To the extent those
9 filings purport to seek affirmative relief, those requests are denied because: (1)
10 no default judgment has been entered against Plaintiff so the Motion to Set
11 Aside Default Judgment (Dkt. 83) is denied; and (2) Plaintiff's Second Belated
12 Motion for Summary Judgment (Dkt. 84), filed on March 6, 2019, was filed
13 after the motion cutoff under the operative Scheduling Order (Dkt. 44, ¶
14 (B)(2)), is not in compliance with Rule 56 of the Federal Rules of Civil
15 Procedure or Local Civil Rule 56-1, was not set upon proper notice under
16 Local Rule 6-1, and is an improper attempt to seek reconsideration of the R&R
17 under Local Rule 7-18. However, as noted, the Court will consider these
18 "motions" as part of Plaintiff's objections to the R&R.

19 The Court notes that Plaintiff objects to the location of the hearing that
20 took place before the Magistrate Judge and further asserts that her non-
21 appearance at the hearing is justified because "notice was not provided." Dkt.
22 82 at 13; see also Dkt. 83 at 2; Dkt. 87 at 3; Dkt. 90 at 11; and Dkt. 92 at 11.
23 However, on January 28, 2019, the assigned magistrate judge issued a
24 scheduling order regarding Moving Defendants' Motion, which stated: "On
25 January 22, 2019, Defendants filed a Motion for Summary Judgment with a
26 hearing date of February 21, 2019 at 10:00 a.m. in Courtroom 6A of the
27 Ronald Reagan Federal Building and United States Courthouse, located at 411
28 West Fourth Street, Santa Ana, California." Dkt. 71 at 1 (emphasis in

1 original). Thus, the record reflects that Plaintiff had notice of the time, date,
2 and location of the hearing. Further, Plaintiff had an opportunity to and did
3 file briefs in support of or in opposition to the motions before the magistrate
4 judge. See, e.g., Dkt. 55, 59, 60, 65, 72, 76. Lastly, Plaintiff's non-appearance
5 at the hearing was not cited as a basis for any of the findings in the R&R.

6 The Court has engaged in a de novo review of those portions of the
7 Report and Recommendation to which objections have been made. The Court
8 accepts the findings and recommendation of the Magistrate Judge.

9 THEREFORE, IT IS HEREBY ORDERED THAT:

- 10 1. Moving Defendants' Motion is GRANTED as to Claim Three in the
11 SAC and Claim Three shall be dismissed with prejudice as to Moving
12 Defendants Officers Cochran and Jauregui;
- 13 2. Plaintiff's Motion (Dkt. 59), Second Request (Dkt. 55), Third Request
14 (Dkt. 60), Motion to Set Aside Default (Dkt. 83), and Second Belated
15 Motion for Summary Judgment (Dkt. 84) are DENIED;
- 16 3. Plaintiff's Application to file documents electronically in this action
17 (Dkt. 88) is DENIED;
- 18 4. Based on the foregoing and the Prior Dismissal Order (Dkt. 29),
19 Judgment shall be entered dismissing all claims asserted against: (a)
20 defendants the City of Santa Monica, the Santa Monica Police
21 Department, Officer Cochran, and Officer Jauregui with prejudice;
22 and (b) defendants Los Angeles County, the Los Angeles County
23 Department of Children and Family Services, Jeweutt Bright,
24 Stephanie Rush, Jamie Hein, and DOES 1-10 without prejudice.

25 Dated: April 18, 2019
26

27 _____/s/
28 FERNANDO M. OLGUIN
United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**