

ENTERED

July 31, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TYLER HARRINGTON,

Plaintiff,

VS.

NATHANIEL CANO,

Defendant.

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CIVIL ACTION NO. 4:24-CV-00366

ORDER DISMISSING COMPLAINT

Before the Court is the defendant, Nathaniel Cano’s motion to dismiss [De 16], the reply [DE 22] to the plaintiff, Tyler Harrington’s response [DE 18], and motion for leave to file a sur-reply [DE 23]. The plaintiff’s motion for leave to file sur-reply is Denied.

Previously, the Court addressed two other defendants’ motions to dismiss [DE 15], concluding that the plaintiff had failed to establish claims under 42 U.S.C. § 1983, for use of excessive force, unlawful search and in detaining him without a search warrant.

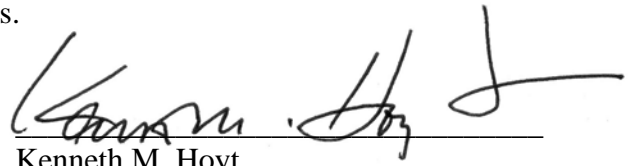
The Court is of the opinion that the plaintiff’s claims against Deputy Cano, likewise, fail to state a justiciable claim and; therefore, Deputy Cano’s motion to dismiss should be granted.

The facts are essentially undisputed. The deputies were dispatched to an incorrect address after receiving a call that a suspicious person was outside the house at 9819 Sagemark Drive at midnight. When the officers arrived, they found the entry doors unlocked and sought permission from the dispatcher to search the house. The dispatcher obtained permission from the alleged owners. As the facts developed, the true owners were in the house. The dispatcher had given the officers an incorrect address. Nevertheless, the search of the house at 9818 Sagemark only to later find that they had been given an incorrect address.

The Court is of the opinion that, while the conduct of the officers was surprising, frightful, inconvenient and at times abrasive, if the plaintiff is to be believed, their conduct did not violate 42 U.S.C § 1983 or the Fourth Amendment to the Federal Constitution.

It is ORDERED that the plaintiff's lawsuit is Dismissed.

SIGNED on July 31, 2024, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge