

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAVELLE WALKE	:	CIVIL ACTION
	:	
v.	:	
	:	
JAMES CULLEN, et al.,	:	NO. 05-6665

ORDER

AND NOW this 14th day of May, 2009, upon consideration of defendants James Cullen and Robert Freil's Motion to Dismiss (Docket No. 30), IT IS HEREBY ORDERED, for the reasons stated in a memorandum of today's date, that the Motion is GRANTED IN PART AND DENIED IN PART as follows:

1. The Motion is DENIED as to the plaintiff's claims arising from a) the alleged use at trial of unconstitutionally obtained statements that the plaintiff made before being Mirandized; b) the allegedly improper search of the plaintiff's house; c) the plaintiff's allegedly false arrest, d) the allegedly wrongful seizure of the plaintiff's property; and e) the plaintiff's allegedly improper blindfolding. This denial is without prejudice to the defendants' ability to challenge the validity of these claims under Heck v. Humphrey, 512 U.S. 477 (1994) at a later stage of the proceedings on a fuller record.

2. The Motion is GRANTED with respect to the plaintiff's claims for damages for his "incarceration" and "false imprisonment" resulting from his criminal conviction. The plaintiff's claims for damages for the confinement that resulted from his conviction and subsequent imprisonment are DISMISSED.

3. The Court will DISMISS sua sponte the plaintiff's claims relating to the alleged failure to replace his counsel at his criminal trial and the plaintiff's claims relating to the allegedly improper search of his real estate, voter, and motor vehicle records.

4. The Clerk of Court shall correct the docket to reflect that the plaintiff's name is "Lavelle Walke."

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.