

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

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**RANDALL WINSLOW, On His Own  
Behalf and For Those Similarly Situated  
Plaintiff,**

v.

**THE BOROUGH OF MALVERN  
PENNSYLVANIA, CHIEF OF POLICE  
MICHAEL MCMAHON, POLICE  
OFFICER, LLOYD DOUGLAS, THE  
TOWNSHIP OF WILLISTOWN, CHIEF  
OF POLICE JOHN NARCISE, OFFICER  
STEPHEN J. JONES, Individually and in  
Their Official Capacities As Police Officers  
in the Borough of Malvern and the  
Township of Willistown  
Defendants.**

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**CIVIL ACTION**

**NO. 08 - 1890**

**ORDER**

**AND NOW**, this 7th day of December, 2009, upon consideration of Defendants, The Borough of Malvern, Chief Michael McMahon, and Sgt Lloyd Douglas’ [sic] Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Document No. 26, filed June 19, 2009); Defendants, the Township of Willistown, Chief of Police John Narcise and Officer Stephen J. Jones’ [sic] Motion to Dismiss Plaintiff’s Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) (Document No. 27, filed June 26, 2009); and related submissions of the parties, for the reasons set forth in the Memorandum dated December 7, 2009, **IT IS ORDERED** as follows:

1. Defendants, the Township of Willistown, Chief of Police John Narcise and Officer Stephen J. Jones’ [sic] Motion to Dismiss Plaintiff’s Amended Complaint Pursuant to Fed.

R. Civ. P. 12(b)(6) (Document No. 27) is **GRANTED**. Plaintiff's Amended Complaint as to these defendants is **DISMISSED WITH PREJUDICE**;

2. Defendants, the Borough of Malvern, Chief Michael McMahon, and Sgt. Lloyd Douglas' [sic] Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Document No. 26) is **GRANTED IN PART AND DENIED IN PART**, as follows:

a. The Motion is **GRANTED** as to defendants the Borough of Malvern and Chief Michael McMahon. Plaintiff's Amended Complaint against those defendants is **DISMISSED WITH PREJUDICE**;

b. The Motion is **GRANTED** as to plaintiff's claims that Sgt. Lloyd Douglas (i) violated plaintiff's rights under the Fourth Amendment by making an extra-jurisdictional arrest, (ii) violated plaintiff's rights under the Fifth Amendment by failing to give a Miranda warning at the appropriate time, (iii) violated the plaintiff's Eighth Amendment rights by using unreasonable force during an arrest, (iv) violated the plaintiff's Fourteenth Amendment Due Process rights by using unreasonable force during an arrest, (v) committed a battery by allowing hospital personnel to draw Plaintiff's blood, and (vi) committed the tort of intentional infliction of emotional distress, and all such claims are **DISMISSED WITH PREJUDICE**;

c. The Motion is **DENIED** as to plaintiff's claims that Sgt. Lloyd Douglas (i) used unreasonable force in violation of the Fourth Amendment, (ii) committed an unreasonable search of the home at 12 Callery Way in violation of the Fourth Amendment, and (iii) committed a battery while arresting the plaintiff, **WITHOUT PREJUDICE** to Douglas's right to assert the defense of qualified immunity, and any

other appropriate defense, after relevant discovery, in a summary judgment motion and/or trial.

**IT IS FURTHER ORDERED** that a scheduling conference shall be conducted in due course;

**IT IS FURTHER ORDERED** that the caption of this case shall be amended to delete reference to all defendants except Sgt. Lloyd Douglas.

BY THE COURT:

/S/ Jan E. Dubois  
**JAN E. DUBOIS, J.**