

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

PETER BISTRAN

Plaintiff,

v.

**WARDEN TROY LEVI, FDC
PHILADELPHIA, et al.,**

Defendants.

CIVIL ACTION NO. 08-3010

ORDER

AND NOW, this 19th day of October 2023, upon consideration of Defendant James Gibbs's Motion for Summary Judgment [Doc. No. 552] and the counseled response and reply thereto, and for the reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that Defendant's Motion for Summary Judgment is **GRANTED in part** and **DENIED in part** as follows:

1. Summary Judgment is **DENIED** as to the remaining claim (failure to protect) against Defendant James Gibbs.
2. Summary Judgment is **DENIED** as to Plaintiff's ability to pursue damages for back pain and mental pain and suffering.
3. Summary Judgment is **GRANTED** as to Plaintiff's ability to pursue damages for hearing loss.

It is further **ORDERED** that, upon consideration of Plaintiff's Motion to Rest Upon His Prior Submissions Concerning Summary Judgment or for Alternative Relief [Doc. No. 561] and the response and reply thereto, the Motion is **GRANTED**.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.