

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

HARVEY MIGUEL ROBINSON,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	NO. 08-3156
JEFFREY BEARD, <u>et al.</u>	:	
	:	
Defendants.	:	

**ORDER**

**AND NOW**, this 13<sup>th</sup> day of *November*, 2013, upon consideration of the Motion by Defendants Jeffrey A. Beard, David DiGuglielmo, Myron Stanishefski, Francis Beretsky, William Wilcox, and Bryan Toms (collectively, the “Commonwealth Defendants”) to Partially Dismiss Plaintiff’s Amended Complaint (Docket No. 74) and Plaintiff Harvey Miguel Robinson’s Response (Docket No. 77), it is hereby **ORDERED** as follows:

1. The Commonwealth Defendants’ Motion relating to Defendants Jeffrey A. Beard, David DiGuglielmo, and Myron Stanishefski is **GRANTED** and all claims against these Defendants are hereby **DISMISSED WITH PREJUDICE**.
2. The Commonwealth Defendants’ Motion relating to any Eighth Amendment deliberate indifference and substantive due process claims is **DENIED AS MOOT** based on Plaintiff’s explicit representation that he is not bringing any such claims.
3. The Commonwealth Defendants’ Motion to Dismiss the § 1983 excessive force claims against Defendants Toms, Beretsky, and Wilcox in their official capacities is **GRANTED** and these claims are **DISMISSED WITH PREJUDICE**.
4. The Commonwealth Defendants’ Motion to Dismiss the § 1983 excessive force claims against Defendants Toms, Beretsky, and Wilcox in their individual

capacities<sup>1</sup> is **DENIED**.

5. The Commonwealth Defendants' Motion to Dismiss Plaintiff's state law claims against Defendants Toms, Beretsky, and Wilcox is **DENIED**.
6. Defendants Toms, Beretsky, and Wilcox will file an Answer to the remaining claims against them within twenty (20) days from the date of this Order.

It is so **ORDERED**.

BY THE COURT:

*s/ Ronald L. Buckwalter*  
RONALD L. BUCKWALTER, S.J.

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<sup>1</sup> As noted in the accompanying Memorandum, it is not entirely clear that Defendants are moving to dismiss the individual capacity § 1983 claims. Nonetheless, for purposes of clarity, the Court makes an explicit ruling as to these claims.