

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

MARIO BANEGAS,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	NO. 08-5348
	:	
JOHN HAMPTON et al.,	:	
Defendants	:	

ORDER

STENGEL, J.

AND NOW, this 22d day of April, 2009, upon consideration of the Motion to Dismiss (Document #5), it is hereby **ORDERED** that the motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The motion to dismiss the claims contained in Count V against Warden D. Edward McFadden in his official capacity is **GRANTED**. Those claims are hereby **DISMISSED**;
2. The motion to dismiss the claims contained in Count V against the County of Chester, the Chester County Prison Board, and Warden D. Edward McFadden in his personal capacity is **DENIED**.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.