

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

ROBERT STEWART, :
Plaintiff, : **CIVIL ACTION**
v. :
: :
OFFICER ROBERT KINCH, et al., :
Defendants. : **NO. 12-1509**

ORDER

AND NOW, this 20th day of December, 2012, upon consideration of Plaintiff Robert Stewart's Complaint (Docket No. 1), the Township Defendants' Motion to Dismiss (Docket No. 7), the County Defendants' Motion to Dismiss (Docket No. 8), the PrimaCare Defendants' Motion to Dismiss (Docket Nos. 11-12), Mr. Stewart's responses thereto (Docket Nos. 15-17, 19), and the Defendants' reply briefs (Docket Nos. 21-22), and for the reasons stated in the accompanying Memorandum, it is hereby ORDERED that:

1. The Township Defendants' Motion to Dismiss (Docket No. 7) is DENIED in part with respect to Counts 1, 3, 4, and 7 (as to Officers Kinch and Armbruster); GRANTED in part without prejudice with respect to Count 6; and GRANTED in part with prejudice with respect to Count 7 (as to East Goshen and Westtown Townships).
2. The County Defendants' Motion to Dismiss (Docket No. 8) is DENIED in part with respect to Counts 8 (as to Officers Emmons and Whiteside), 9, 10 (as to the claim for battery), 11 (as to Officers Emmons and Whiteside), 12, and 15 (as to Officers Emmons and Whiteside); GRANTED in part without prejudice with respect to Counts 8 (as to Officers Kelly, Brooks, Yancik, Griswold, and Moeller), 10 (as to the claim for assault), 13, 14, 15 (as to Officers Kelly, Brooks,

Yancik, Griswold, and Moeller), and 16; and GRANTED in part with prejudice with respect to Counts 11 (as to Chester County and Chester County Prison) and 15 (as to Chester County and Chester County Prison).

3. The PrimaCare Defendants' Motion to Dismiss (Docket Nos. 11-12) is GRANTED without prejudice.
4. If Mr. Stewart chooses to file an amended complaint, he shall do so by January 11, 2013 in a manner consistent with the terms of the Court's opinion. In addition to filing such a complaint on the docket, Mr. Stewart must serve the Court and opposing counsel with a color-printed "redline" of the amended complaint, so that the parties and the Court may view how it differs from his original complaint.
5. The Defendants shall answer or otherwise respond to Mr. Stewart's complaint either by January 25, 2013, or within fourteen (14) days of his filing an amended complaint, whichever is earlier.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge