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

JASON COLLURA, : CIVIL ACTION

Plaintiff,

:

v. : NO. 2:12-cv-4398

CITY OF PHILADELPHIA, P/O CEDRIC WHITE, P/O JOSEPH CORVI, P/O DANIEL DAVIS, P/O MARIA ORTIZ-RODRIGUEZ, P/O JERROLD BATES, In Their Individual Capacities, ALLIED BARTON, DANIEL ROSIELLO, and DIANE KOLWASKI,

Defendants.

ORDER

AND NOW, this 1st day of March, 2013, upon consideration of <u>pro se</u> Plaintiff's Motion for Reconsideration (Document No. 28, filed December 28, 2012), Defendants' Brief in Opposition to Plaintiff's Motion for Reconsideration (Document No. 29, filed January 3, 2013), and Plaintiff's Reply in Opposition to City's Brief in Opposition to Plaintiff's Motion for Reconsideration (Document No. 34, filed January 17, 2013), for the reasons stated in the attached Memorandum dated March 1, 2013, **IT IS ORDERED** that <u>pro se</u> Plaintiff's Motion for Reconsideration is **DENIED**. The request for leave to file an interlocutory appeal included in the Motion for Reconsideration is also **DENIED**.

IT IS FURTHER ORDERED that the Memorandum dated December 20, 2012, is **AMENDED** so as to correct the sentence that begins on the third line of page 3 to read, "Plaintiff was not charged with a crime and was released."

IT IS FURTHER ORDERED that Plaintiff's First Amended Complaint (Document No. 36) is DISMISSED WITHOUT PREJUDICE to plaintiff's right to file, within thirty (30) days, a second amended complaint which complies in all respects with the Memorandum and Order dated December 20, 2012 and the attached Memorandum dated March 1, 2013. In this connection the Court notes that, contrary to plaintiff's statements, the filing of an amended complaint which asserts claims that arose out of the conduct or occurrence set out in the original complaint relates back to the date of filing of the original complaint pursuant to Federal Rule of Civil Procedure 15(c). That same Rule provides for the relation back of an amended complaint which changes the party against whom a claim is asserted under specified circumstances.

IT IS FURTHER ORDERED that Plaintiff's Motion to Stay Amended Complaint (Document No. 37, filed January 18, 2013) is **DENIED AS MOOT** in view of the dismissal of the First Amended Complaint without prejudice.

IT IS FURTHER ORDERED that Defendants, AlliedBarton Security Services LLC,
Daniel Rosiello and Diane Kowalski's Motion to Dismiss Plaintiff's First Amended Complaint
for Failure to State a Claim upon which Relief Can Be Granted (Document No. 41, filed
February 1, 2013), and Defendants' Motion to Dismiss Plaintiff's First Amended Complaint filed
by the City defendants (Document No. 43, filed February 1, 2013) are DENIED AS MOOT.¹

IT IS FURTHER ORDERED that Plaintiff's Motion to Stay Opposition to Defendants' Motion for Dismissal (Document No. 49, filed February 22, 2013) is **DENIED AS MOOT**.

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¹ Plaintiff filed an opposition to the City Defendants' motion to dismiss on February 20, 2013 (Document No. 45) and an opposition to AlliedBarton's motion to dismiss on February 22, 2013 (Document No. 48).

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike Affirmative Defenses in

Defendant City of Philadelphia's Answer (Document No. 46, filed February 20, 2013) is

DENIED AS MOOT.

IT IS FURTHER ORDERED that plaintiff's Motion to Stay Proceedings (Document

No. 32, filed January 17, 2013), is **DENIED**. That Motion states "an [a]ppeal has been taken in

this matter to correct all of discretion this court abused. Accordingly, a stay until disposition of

appeal and justice is returned, needs to follow." That is an incorrect statement. No appeal has

been taken from the Memorandum and Order of December 20, 2012, granting plaintiff leave to

file an amended complaint consistent with the Memorandum and Order of December 20, 2012,

within thirty (30) days.

BY THE COURT:

/s/ Hon. Jan E. DuBois

JAN E. DuBOIS, J.

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