

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

JASON TWARDZIK,

Plaintiff,

v.

OFFICER ELLIS DEVERO, *et al.*,

Defendants.

CIVIL ACTION
NO. 15-00015

ORDER

AND NOW, this 15th day of June, 2015, upon consideration of Defendants' motion to dismiss (ECF No. 4), Plaintiff's opposition thereto (ECF No. 5), and Defendants' reply (ECF No. 6), it is hereby **ORDERED** that the motion is **DENIED in part** and **GRANTED in part**. It is **FURTHER ORDERED** that:

1. Defendants' motion to dismiss the complaint against all Defendants pursuant to Rule 12(b)(1) is **DENIED**;
2. Defendants' motion to dismiss the complaint against Officers Devero and Jackson pursuant to Rule 12(b)(6) is **DENIED**. Plaintiff has stated a claim for excessive force against Officers Devero and Jackson under 42 U.S.C. § 1983;
3. Defendants' motion to dismiss the complaint against Dr. Traub pursuant to Rule 12(b)(6) is **GRANTED**. Plaintiff's claim against Dr. Traub under 42 U.S.C. § 1983 is **DISMISSED WITHOUT PREJUDICE**;
4. Plaintiff's state law claims against all Defendants are **DISMISSED WITH PREJUDICE**; and

5. Plaintiff may file an amended complaint consistent with this Order on or before June 30, 2015.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.