WELLS v. PEREZ et al Doc. 36

## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

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OTTO WELLS,

Plaintiff,

:

v. : No. 2:16-cv-02687

PHILADELPHIA POLICE DEPARTMENT; EDWIN PEREZ; TIMOTHY GIBSON; MAYOR OF PHILADELPHIA; and PHILADELPHIA CITY COUNCIL.

:

Defendants.

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## ORDER

**AND NOW**, this 20<sup>th</sup> day of October, 2017, upon consideration of Defendants Mayor and City Council's Motion to Dismiss, ECF No. 25; Plaintiff Otto Wells's Motion for Summary Judgment, ECF No. 29; Wells's Motion for Appointment of Counsel, ECF No. 30; and Wells's Motion for an Order Compelling Discovery, ECF No. 32, and for the reasons set forth in the accompanying Opinion issued this date, **IT IS ORDERED THAT**:

- 1. Defendants Mayor and City Council's Motion to Dismiss, ECF No. 25, is **GRANTED**. Wells's claims against these Defendants are **DISMISSED** without prejudice. Wells will be permitted leave to amend his complaint with respect to these Defendants. However, in view of the Court's decision to refer this matter to the Prisoner Civil Rights Panel and to stay all proceedings while Wells's case is pending before the Panel (see below) the Court will not set a deadline for amendment at this time.
- 2. Wells's Motion for Summary Judgment, ECF No. 29, is **DENIED** without prejudice to renew following the close of discovery.

3. Wells's Motion for an Order Compelling Discovery, ECF No. 32, is **DENIED** as moot.

4. Wells's Motion for Appointment of Counsel, ECF No. 30, is **GRANTED** in part, solely

to the extent that the Court is referring this case to this district's Prisoner Civil Rights

Panel to attempt to find a volunteer attorney willing to represent Wells.

5. This case is **STAYED** during the time that Wells's request for counsel is pending before

the Prisoner Civil Rights Panel. Accordingly, the Clerk of Court shall **TRANSFER** the

above-captioned action to the Civil Suspense Docket, and MARK the case CLOSED for

statistical purposes. The Court shall **RETAIN** jurisdiction over the case and shall

**RETURN** it to the Court's active docket once the case is ready to proceed to disposition.

The entry of this Order is without prejudice to the rights of the parties.

6. The Clerk of Court is **DIRECTED** to add Defendant Philadelphia Police Department to

the docket. The Department is represented by Attorney Meghan E. Claiborne of the City

of Philadelphia Solicitor's Office.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.

United States District Judge

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