GARY v. BAUDER et al Doc. 24

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

DWAYNE GARY, :

Plaintiff, : CIVIL ACTION

:

v. :

:

C/O BAUDER et al., : No. 16-2861

Defendants: :

ORDER

AND NOW, this 17th day of February, 2017, upon consideration of Defendants' Motions to Dismiss (Docket Nos. 5, 6) and Plaintiff's Response thereto (Docket No. 21), it is **hereby ORDERED** that the Motions (Docket Nos. 5, 6) are **GRANTED** in part and **DENIED** in part as follows:

- All claims against Defendants Bauder, Collins, Zamosky, Zerr, Fuentes, Miller, Smith, and Algarin in their official capacities are **DISMISSED**.
- 2. Count VII Retaliation is **DISMISSED in part**, to the extent that Mr. Gary bases his claim of retaliation on verbal harassment.
- 3. Count VII Conspiracy is **DISMISSED** in part, such that the only portion of that claim that will remain is a § 1983 conspiracy to file false misconduct charges as retaliation for Mr. Gary's verbal complaints as to Defendant Officers Bauder, Zamosky, and Zerr, and Lt. Collins only.
- Count VIII Intentional Infliction of Emotional Distress is **DISMISSED** as to Defendant Montgomery County only.

5. All requests for injunctive relief are **deemed WITHDRAWN**.

BY THE COURT:

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