

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

MARK TINGEY,
Plaintiff,

CIVIL ACTION

v.

**PROBATION OFFICER DAGE
GARDNER,
SUPERVISING PROBATION OFFICER
CAITLIN McLAUGHLIN,
EDWARD L. BURKE, Member Board of
Probation and Parole,
LESLIE M. GREY, Member Board of
Probation and Parole,
GRAIG R. McKAY, Member Board of
Probation and Parole,
MICHAEL L. GREEN, Member Board of
Probation and Parole,
JEFFREY R. IMBODEN, Member Board of
Probation and Parole,, and
MICHAEL C. POTTEIGER, Member
Board of Probation and Parole,
Defendants.**

NO. 17-827

ORDER

AND NOW, this 9th day of November, 2017, upon consideration of defendants Edward Burke, Leslie Grey, and Michael Potteiger's Motion to Dismiss the First Amended Complaint (Doc. No. 13), plaintiff's Memorandum of Law in Support of Response to Defendants' 12(b)(6) Motion to Dismiss (Doc. No. 16), defendants Craig McKay, Jeffrey Imboden, and Michael Green's Motion to Dismiss the First Amended Complaint (Doc. No. 22), and plaintiff's Response to Defendant McKay's, Imboden's, and Green's 12(b)(6) Motion to Dismiss (Doc. No. 23), and the Court having noted that plaintiff does not contest dismissal of Counts I and II of the Amended Complaint with respect to defendants Burke, Grey, Potteiger, McKay, Imboden, and

Green, for the reasons stated in the accompanying Memorandum dated November 9, 2017, **IT IS ORDERED** as follows:

1. That part of defendants Burke, Grey, and Potteiger's Motion to Dismiss seeking dismissal of Counts I and II of the Amended Complaint is **GRANTED** by agreement and those claims are **DISMISSED WITHOUT PREJUDICE**;

2. That part of defendants McKay, Imboden, and Green's Motion to Dismiss seeking dismissal of Counts I and II of the Amended Complaint is **GRANTED** by agreement and those claims are **DISMISSED WITHOUT PREJUDICE**;

3. That part of defendants Burke, Grey, and Potteiger's Motion to Dismiss seeking dismissal of Count III of the Amended Complaint is **GRANTED** and that claim is **DISMISSED WITHOUT PREJUDICE**; and,

4. That part of defendants McKay, Imboden, and Green's Motion to Dismiss seeking dismissal of Count III of the Amended Complaint is **GRANTED** and that claim is **DISMISSED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED that plaintiff is granted leave to file a second amended complaint with respect to the claims in Count III of the Amended Complaint in accordance with this Court's Memorandum dated November 9, 2017, and paragraphs (3) and (4) above, if warranted by the facts and applicable law, within twenty (20) days.

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.