

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

GERONIMO ROSADO FRATICELLI, JR.
Plaintiff

CIVIL ACTION

v.

PHYLLIS R. STRETEL, et al.
Defendants

FILED
FEB 28 2018
By KATE BARKMAN, Clerk
Dep. Clerk

NO. 17-3343

ORDER

AND NOW, this 28th day of February, 2018, upon consideration of Mr. Rosado’s “Motion for Leave to File Leave to File Amended Complaint for Permanet [sic] Injunction and Other Equitable Relief” (ECF No. 12), Exhibit (ECF No. 13), “Affidavit and Certificate of Merit” (ECF No. 14), and “Certificate of Merit and Resolution” (ECF No. 15), it is ORDERED that:

1. “Motion for Leave to File Leave to File Amended Complaint for Permanet [sic] Injunction and Other Equitable Relief” (ECF No. 12) is DENIED as unnecessary because Mr. Rosado has already given Mr. Rosado leave to file an amended complaint in this matter.

2. The Court has construed Mr. Rosado’s filings as his amended complaint in this matter. So construed, the amended complaint is DISMISSED as frivolous and for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii), for the reasons stated in the Court’s Memorandum. Mr. Rosado’s claims are dismissed with prejudice with the exception of (1) any claims that were dismissed based solely on *Heck v. Humprhey*, 512 U.S. 477, 486-87 (1994), which are dismissed without prejudice to Mr. Rosado filing those claims in a new civil action in the event his convictions are ever vacated or invalidated; and (2) claims based on the July 21,

2017 incident with Trooper Dugan, which Mr. Rosado may pursue by initiating a new civil action against Trooper Dugan. Mr. Rosado may not file an amended complaint in this matter.

3. The Clerk of Court shall CLOSE this case.

BY THE COURT:



C. DARNELL JONES, II, J.