

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

EDWARD W. DURHAM,  
Plaintiff,

v.

THE PHILADELPHIA PRISON  
SYSTEM, *et al.*,  
Defendants.

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CIVIL ACTION NO. 18-CV-2113

FILED

NOV 26 2018

KATE B. FIKMAN, Clerk

By \_\_\_\_\_ Dep. Clerk

ORDER

AND NOW, this 26th day of November, 2018, upon consideration of Plaintiff Edward W. Durham’s Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 14) and his *pro se* Amended Complaint (ECF No. 15) it is ORDERED that:

1. The Amended Complaint is **DISMISSED** for failure to state a claim, pursuant to 28 U.S.C. § 1915A(b)(1), for the reasons stated in the Court’s Memorandum.

2. Durham is given leave to file a second amended complaint. In light of the request for an extension of time included in his Complaint, the Court will allow Durham to file a second amended complaint within sixty (60) days of the date of this Order, whether on his own or through counsel. If Durham files a second amended complaint, he must identify all of the defendants in the caption of the amended complaint. Any individual or entity that is not listed in the caption will not be treated as a defendant. If Durham wishes to name individuals for whom he does not have any identifying information, he may refer to those individuals as John Doe #1, John Doe #2, etc. The amended complaint must also describe how each defendant, including any John Doe or Jane Doe defendants, were responsible for violating Durham’s rights. Any second amended complaint must be a complete document that sets forth all of the facts giving rise to Durham’s claims without relying on or referencing other pleadings or documents filed in this

case. Upon the filing of an amended complaint, the Clerk of Court shall not reissue summonses or make service until so **ORDERED**.

3. The Clerk of Court shall **SEND** Durham a blank copy of the Court's form complaint to be used by a prisoner filing a civil rights action bearing the civil action number of this case. Durham may use this form to file a second amended complaint.

4. If Durham fails to file a second amended complaint, his case may be dismissed without prejudice for failure to prosecute without further notice.

5. The Motion for Leave to Proceed *In Forma Pauperis* is **DENIED without prejudice** because Durham has already paid the fees to commence this civil action. However, Durham may again seek to proceed *in forma pauperis* in connection with any motion for appointment of counsel or if he files a second amended complaint and cannot afford the costs of service.

**BY THE COURT:**



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**GERALD A. MCHUGH, J.**