

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

ANTHONY SUBE,)	
)	Civil Action
Plaintiff)	No. 11-cv-05736
)	
vs.)	
)	
CITY OF ALLENTOWN; and)	
CHIEF ROGER MACLEAN)	
)	
Defendants)	

O R D E R

NOW, this 27th day of September, 2013, upon consideration of Defendants’ Motion to Dismiss and/or Strike Plaintiff’s Second Amended Complaint, which motion was filed on November 13, 2012; upon consideration of the pleadings and record papers; and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that Defendants’ Motion to Dismiss and/or Strike Plaintiff’s Second Amended Complaint is granted in part and denied in part.

IT IS FURTHER ORDERED that the within motion is granted the extent that it seeks to dismiss plaintiff’s procedural due process claim against defendant Chief MacLean.

IT IS FURTHER ORDERED that plaintiff’s procedural due process claim against defendant Chief Roger J. MacLean is

dismissed from Count III of plaintiff's Second Amended Complaint.¹

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss and/or Strike Plaintiff's Second Amended Complaint is granted to the extent it seeks to strike paragraph 104 from the Second Amended Complaint.

IT IS FURTHER ORDERED that paragraph 104 is stricken from the Second Amended Complaint.

IT IS FURTHER ORDERED that the within motion is denied in all other respects.

IT IS FURTHER ORDERED that defendants shall have until October 22, 2013 to file and serve their answer to the Second Amended Complaint.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge

¹ Count III of plaintiff's Second Amended Complaint asserts a procedural due process claim against both defendant Chief Roger J. MacLean and defendant City of Allentown. For the reasons expressed in the accompanying Opinion, this Order dismisses both plaintiff's procedural due process claim against Chief MacLean and paragraph 104 from Count III.

Paragraph 104 of Count III alleges aspects of plaintiff's due process claims against both Chief MacLean and the City of Allentown. Remaining in Count III is plaintiff's due process claim against the city (minus the allegations in paragraph 104, which have been dismissed).