

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

|                              |   |                     |
|------------------------------|---|---------------------|
| <b>ASHAUN MERCES-CLARK,</b>  | : | <b>CIVIL ACTION</b> |
| <b>Plaintiff,</b>            | : |                     |
|                              | : |                     |
| v.                           | : |                     |
|                              | : |                     |
| <b>COMMONWEALTH OF</b>       | : |                     |
| <b>PENNSYLVANIA, ET AL.,</b> | : |                     |
| <b>Defendants.</b>           | : | <b>NO. 13-02111</b> |

**ORDER**

**AND NOW**, this 19<sup>th</sup> day of November 2013, upon consideration of defendants’ motion to dismiss (Doc. No. 13) and responses thereto, it is hereby **ORDERED** that the motion is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Defendants’ motion to dismiss Count II of the complaint against the Commonwealth of Pennsylvania and Pennsylvania State Police is **GRANTED**;
2. Defendants’ motion to dismiss Count II of the complaint against Defendants Colon, Gaspich, and Teper is **DENIED**; and
3. Defendants’ motion to dismiss Count I of the complaint against the Commonwealth of Pennsylvania is **DENIED**.

The Commonwealth of Pennsylvania and the Pennsylvania State Police are dismissed as defendants under Count II of the plaintiff’s amended complaint.

BY THE COURT:

/s/Lawrence F. Stengel \_\_\_\_\_  
LAWRENCE F. STENGEL, J.