

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

VIVIAN BANKS, <u>for herself and for</u>	:	
<u>her minor child, L.F.</u>,	:	
Plaintiffs	:	No. 1:14-cv-01191
	:	
v.	:	
	:	(Judge Kane)
CITY OF YORK, <u>et al.</u>,	:	
Defendants	:	

ORDER

AND NOW, on this 7th day of July, 2015, **IT IS HEREBY ORDERED THAT** the School Defendants' motion to dismiss (Doc. No. 15) is **GRANTED IN PART** and **DENIED IN PART**; and the City Defendants' motion to dismiss (Doc. No. 19) is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Count I of Plaintiffs' complaint (Doc. No. 1) is **DISMISSED WITHOUT PREJUDICE**; except insofar as:
 - A. To the extent Plaintiffs bring claims pursuant to 42 U.S.C. § 1983 for violations of the Eighth Amendment to the United States Constitution, such claims are **DISMISSED WITH PREJUDICE**; and
 - B. To the extent Plaintiffs bring a Fourth Amendment false arrest claim pursuant to 42 U.S.C. § 1983, such claim is not dismissed; and
2. Plaintiffs' claims against Defendants Wes Kahley, Darlene Freeman, and Jim Rauhauser in their official capacities are **DISMISSED WITH PREJUDICE**;
3. Count III of Plaintiffs' complaint (Doc. No. 1) for supervisory liability is **DISMISSED WITHOUT PREJUDICE**;
4. Count IV of Plaintiffs' complaint (Doc. No. 1) for municipal liability is **DISMISSED WITHOUT PREJUDICE**;
5. Count V of Plaintiffs' complaint (Doc. No. 1) for violations of the Pennsylvania Constitution is **DISMISSED WITH PREJUDICE**;
6. Count VI of Plaintiffs' complaint (Doc. No. 1) for state law negligence is **DISMISSED WITH PREJUDICE**;

7. Plaintiffs' claims for punitive damages as to Defendants the City of York, the City of York School District, and Defendants Wes Kahley, Darlene Freeman, and Jim Rauhauser in their official capacities are **DISMISSED WITH PREJUDICE**;
8. Plaintiffs' claim for punitive damages as to Defendant Chief Wes Kahley in his individual capacity is **DISMISSED WITHOUT PREJUDICE**;
9. The individual claims of Plaintiff Vivian Banks are **DISMISSED WITH PREJUDICE**;
10. The Clerk of Court shall terminate Darlene Freeman and Jim Rauhauser as defendants in this action; and
11. Plaintiffs are granted leave to file an amended complaint within 21 days of the date of this order.

S/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania