

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

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| NIKITA DILLARD, | : | CIVIL ACTION NO. 1:18-CV-70 |
| | : | |
| Plaintiff | : | (Chief Judge Conner) |
| | : | |
| v. | : | |
| | : | |
| SEAN CORNICK, individually | : | |
| and in his official capacity, and the | : | |
| HARRISBURG POLICE BUREAU, | : | |
| | : | |
| Defendants | : | |

ORDER

AND NOW, this 28th day of September, 2018, upon consideration of the motion (Doc. 4) to dismiss filed by defendants Sean Cornick (“Cornick”), individually and in his official capacity, and the Harrisburg Police Bureau, and the parties’ respective briefs in support of and opposition to said motion, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. Defendants’ motion (Doc. 4) to dismiss is DENIED to the extent it seeks dismissal of the malicious prosecution claim (Count 3) against Cornick in his individual capacity for prosecution of plaintiff Nikita Dillard (“Dillard”) for a charge of prohibited possession of a fully automatic assault rifle by a convicted felon.
2. Defendants’ motion (Doc. 4) is GRANTED in all other respects as follows:
 - a. Dillard’s claim for monetary damages under Article I, Section 8 of the Pennsylvania Constitution (Count 1) is DISMISSED with prejudice.

- b. Dillard's claims against Cornick in his official capacity as an employee of the Harrisburg Police Bureau (Counts 2 and 3) and his claim for municipal liability against the Harrisburg Police Bureau (Count 4) are DISMISSED with prejudice to the extent the Harrisburg Police Bureau is not a proper Section 1983 defendant.
 - c. Dillard's claim against Cornick in his individual capacity for false arrest and false imprisonment (Count 2) is DISMISSED without prejudice.
 - d. Dillard's claim against Cornick in his individual capacity for malicious prosecution (Count 3) is DISMISSED without prejudice to the extent it is based on charges against Dillard for prohibited possession of a handgun by a convicted felon, use and possession of drug paraphernalia, and receipt of stolen property.
3. The Clerk of Court is directed to terminate the Harrisburg Police Bureau as a defendant in the above-captioned action.
4. Dillard is granted leave to amend his pleading within twenty (20) days of the date of this order, consistent with the above paragraphs and the accompanying memorandum. In the absence of a timely filed amended complaint, the above-captioned action shall proceed on Dillard's remaining claim against Cornick in his individual capacity.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania