

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

**EDWARD ORTIZ,**  
**Plaintiff**

v.

**LEWIS MESSINGER,**  
**Defendant**

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**No. 1:23-cv-00315**

**(Judge Rambo)**

**ORDER**

**AND NOW**, on this 26th day of March 2024, upon consideration of Defendant Lewis Messinger (“Defendant”)’s motion to dismiss, filed pursuant to Rule 12(b) of the Federal Rules of Civil Procedure (Doc. No. 71), and Plaintiff Edward Ortiz (“Plaintiff”)’s motions for the appointment of counsel (Doc. Nos. 75, 80), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Defendant’s motion to dismiss (Doc. No. 71) is **GRANTED in part** and **DENIED in part** as follows:
  - a. Defendant’s motion (Doc. No. 71) is **GRANTED** as to Plaintiff’s official and individual capacity claims brought under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), and these claims are **DISMISSED WITH PREJUDICE**;
  - b. Defendant’s motion (Doc. No. 71) is **GRANTED** as to Plaintiff’s official capacity claim brought under the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. §§ 2000bb-2000bb-4, and this claim is **DISMISSED WITH PREJUDICE**;

- c. Defendant's motion (Doc. No. 71) is **DENIED** as to Plaintiff's individual capacity claim brought under RFRA, and the above-captioned action shall proceed on this claim;
2. Plaintiff's motions for the appointment of counsel (Doc. Nos. 75, 80) are **DENIED WITHOUT PREJUDICE**;
3. Defendant **SHALL FILE** an answer to the complaint in accordance with the Federal Rules of Civil Procedure;
4. The parties shall complete discovery by **October 28, 2024**; and
5. The parties shall file dispositive motions, if any, on or before **December 30, 2024**.

s/ Sylvia H. Rambo  
SYLVIA H. RAMBO  
United States District Judge