Pressley v. Huber et al Doc. 142

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SEAN PRESSLEY,	:	
Plaintiff,	:	**CIVIL NO. 3:08-0449**
v.	:	**(MANNION, D.J.)** **(MEHALCHICK, M.J.)**
ADAM HUBER, *et al.*,	:	
Defendants	:	

ORDER

In accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED**:

1. Plaintiff's motion for relief from the March 21, 2017 Order pursuant to Fed.R.Civ.P. 60(b), (Doc. 126), is **DENIED AS PREMATURE**.

2. Insofar as plaintiff's Doc. 126 motion is construed as a motion for reconsideration with respect to the March 21, 2017 Order, it is **GRANTED**.

3. The March 21, 2017 Order, (Doc. 123), is **VACATED** to the extent that it granted defendants' (Doc. 99) summary judgment motion with respect to plaintiff's failure to protect claim.

4. The March 21, 2017 Memorandum, (Doc. 122), and Order, (Doc. 123), are also **VACATED** with respect to the finding that plaintiff failed to exhaust his administrative remedies under DC-ADM-804 of the DOC's grievance policy regarding his failure to protect and excessive force claims.

5. The March 21, 2017 Order, (Doc. 123), **SHALL REMAIN IN EFFECT** to the extent that it granted defendants' (Doc. 99) summary judgment motion on the merits with respect to plaintiff's due process cost assessment claim.

6. The court **RECOMMITS** this case to Judge Mehalchick and suggests that she issue an Order permitting the parties time to file summary judgment motions regarding the exhaustion issue under DC-ADM-804 with respect to plaintiff's failure to protect and excessive force claims.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Dated: August 1, 2017

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