

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

AVON C. QUIERO, JR.

Plaintiff,

v.

OFFICER MUNIZ, *et al.*,

Defendants.

CIVIL ACTION NO. 3:14-CV-00225  
(JUDGE CAPUTO)

(MAGISTRATE JUDGE MEHALCHICK)

**ORDER**

**NOW**, this 27<sup>th</sup> day of January, 2017, upon review of the Report and Recommendation of Magistrate Judge Mehalchick (Doc. 46) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Mehalchick's Report and Recommendation (Doc. 46) is **ADOPTED in its entirety**.
- (2) Defendants' motion to dismiss (Doc. 37) Quiero's Amended Complaint (Doc. 31) is **GRANTED in part and DENIED in part**;
- (3) Quiero's Fourteenth Amendment pre-deprivation denial of due process claim against Defendant Karnes is **DISMISSED with prejudice**;
- (4) Quiero's First Amendment retaliation and Fourteenth Amendment post-deprivation denial of due process claims against Defendant Karnes is **DISMISSED without prejudice**;
- (5) Quiero's request for a specific sum of money damages is **STRICKEN** from the claim for damages pursuant to Local Rule 8.1;
- (6) Defendants' motion to dismiss is **DENIED** as to Quiero's First Amendment free exercise of religion claim against Defendant Karnes;
- (7) Quiero has **thirty (30) days** from the date of entry of this Order to file a second amended complaint in accordance with the applicable federal pleading standards and consistent with the Report and Recommendation (Doc. 46); and
- (8) The matter is **RECOMMITTED** to Magistrate Judge Mehalchick for further proceedings.

  
A. Richard Caputo  
United States District Judge