

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TRAMALE LOCKETT,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:15-1843
	:	
v	:	(JUDGE MANNION)
	:	
L.T. DELKER. , <u>et al.</u>,	:	
	:	
Defendants		

MEMORANDUM

I. Background

Plaintiff, Tramale Lockett, an inmate formerly confined in the Benner State Correctional Institution, Bellefonte (“SCI-Benner”), Pennsylvania, filed the above captioned civil rights action pursuant to 42 U.S.C. §1983. (Doc. [1](#), complaint). The named Defendants are Warden Richard C. Smith, Lieutenants Ashley Delkar, Michael Woods and Jordan Luzier, and Nurses Mr. Larry, Mrs. Kimberly, Miss Dawn and Mrs. Michelle. Id.

On September 26, 2016, a motion to dismiss was filed on behalf of Defendants Lieutenant Ashley Delkar, Lieutenant Michael Woods and Corrections Officer Jordan Luzier. (Doc. [35](#)). On October 10, 2016, Defendants filed a brief in support of their motion to dismiss. (Doc. [36](#)). By Order dated April 26, 2017, the Court directed Plaintiff to file a brief in opposition to Defendants’ motion on, or before, May 10, 2017. (Doc. [37](#),

Order). The Court forewarned Plaintiff that his failure to communicate with the Court within twenty (20) days would result in dismissal of Plaintiff's case. Id.

On May 11, 2017, this Court's April 26, 2017 Order was returned as undeliverable, with the notations "return to sender", "not deliverable as addressed", and "paroled". (Doc. [38](#)). The time for filing a response has now passed and Plaintiff has failed to respond. Lockett has not communicated with the Court on this matter since the filing of his amended complaint on August 19, 2016. (Doc. [29](#)). A search of the Department of Corrections inmate locator confirmed that Lockett is no longer incarcerated. See www.inmatelocator.cor.state.pa. For the reasons set forth below, the Court will dismiss Plaintiff's action for failure to prosecute.

Discussion

District courts have the inherent power to dismiss an action for failure to prosecute *sua sponte*. [Chambers v. NASCO, Inc., 501 U.S. 32, 44 \(1991\)](#).

The United States Court of Appeals for the Third Circuit has identified six factors a court should consider before dismissing an action for failure to prosecute:

- (1) the extent of the party's personal responsibility;
- (2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery;
- (3) a history of

dilatoriness; (4) whether the conduct of the party or the attorney was willful or in bad faith; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternative sanctions; and (6) the meritoriousness of the claim or defense.

[Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 \(3d Cir. 1984\)](#)

(emphases omitted). No single factor is dispositive, and “[e]ach factor need not be satisfied for the trial court to dismiss a claim.” [Ware v. Rodale Press, Inc., 322 F.3d 218, 221 \(3d Cir. 2003\)](#). However, the factors “should be weighed by the district courts in order to assure that the ‘extreme’ sanction of dismissal ... is reserved for the instances in which it is justly merited.” [Poulis, 747 F.2d at 870](#).

A *pro se* plaintiff has the affirmative obligation to keep the court informed of his address. Should such address change in the course of this litigation, the plaintiff shall immediately inform the court of such change, in writing. If the court is unable to communicate with the plaintiff because he has failed to notify the court of his address, the plaintiff will be deemed to have abandoned the lawsuit.

Lockett’s last communication with this Court was the filing of his amended complaint. (Doc. [29](#)). Lockett has not communicated with the Court since the filing of this pleading. A search of the Department of Corrections inmate locator indicates that he has been released from custody. Thus, it is

reasonable to conclude that Lockett has abandoned this suit. Consequently, because Plaintiff's dilatoriness outweighs any other Poulis factors, this action will be dismissed. A separate Order will be issued.

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

Dated: June 12, 2017

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