

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MONROE GROCERY, INC. and
FRANCISCO TAVAREZ

Plaintiffs

v.

UNITED STATES OF AMERICA,
GILDA TORRES, and SONNY
PERDUE

Defendants

CIVIL ACTION NO. 3:17-922

(MANNION, D.J.)
(SCHWAB, M.J.)

ORDER

In accordance with the court’s memorandum issued this same day, IT
IS HEREBY ORDERED THAT:

- (1) Judge Schwab’s Report ([Doc. 40](#)) is **ADOPTED IN ITS ENTIRETY**;
- (2) The Government’s objections ([Doc. 43](#)) are **OVERRULED**;
- (3) The Government’s motion to dismiss ([Doc. 18](#)) is **GRANTED IN PART** and **DENIED IN PART**;

- a. The Government’s motion to dismiss plaintiffs’ claims seeking damages against defendants, in their official capacities is **GRANTED**, and such claims are **DISMISSED WITH PREJUDICE**;

b. The Government's motion to dismiss plaintiffs' equal protection claims is **DENIED**.

c. The Government's motion to dismiss plaintiffs' substantive due process claim is **GRANTED**, and such claims are **DISMISSED WITHOUT PREJUDICE**; however, plaintiffs are **GRANTED** leave to file a second amended complaint by **March 6, 2019**.

(4) This matter is **REMANDED** to Judge Schwab for further proceedings.

sl Malachy E. Mannion

MALACHY E. MANNION
United States District Judge

DATE: February 20, 2019

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