

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

GREGORY J. MARTUCCI,

Plaintiff

v.

MILFORD BOROUGH, *et al.*,

Defendants

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CIVIL ACTION NO. 3:17-1671

(JUDGE MANNION)

FILED  
SCRANTON

APR 10 2018

PER   
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ORDER

In light of the memorandum issued this same day, IT IS HEREBY  
**ORDERED THAT:**

- (1) Defendant Ashmway's motion to dismiss, (Doc. 18), plaintiff's amended complaint, (Doc. 14), is **GRANTED IN PART** and **DENIED IN PART**;
- (2) The plaintiff's *Bivens* claims against Ashmway in his official capacity are **DISMISSED WITH PREJUDICE**;
- (3) Defendant Ashmway's motion to dismiss is **DENIED AS MOOT** with respect plaintiff's requests for declaratory judgment since these claims for relief were previously **DISMISSED WITH PREJUDICE**;
- (4) Defendant Ashmway's motion to dismiss plaintiff's malicious prosecution claims, Counts I and II, is **DENIED** and these claims will **PROCEED** against him;

- (5) Defendant Ashmway's motion to dismiss plaintiff's abuse of process claim under *Bivens*, Count III, is **GRANTED** and this claim is **DISMISSED**;
- (6) Defendant Ashmway's motion to dismiss plaintiff's state law abuse of process claim as time-barred, Count IV, is **GRANTED** and this claim is **DISMISSED WITH PREJUDICE**;
- (7) Defendant Ashmway's motion to dismiss plaintiff's remaining claims against him based on the qualified immunity defense is **DENIED**; and
- (8) Defendant Ashmway is directed to file his answer to the remaining claims against him in plaintiff's amended complaint **within 14 days** of the date of this Order.

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

**Dated: April 10, 2018**

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