

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARIO HENRY, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 10-260 Erie
)	
CITY OF ERIE, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER


On August 23, 2013, the United States Court of Appeals for the Third Circuit issued an Opinion in this matter with respect to an appeal that Defendants John E. Horan and Joseph Angelotti filed in response to our denial of their motion to dismiss on qualified immunity grounds the Plaintiffs' § 1983 state-created danger claim filed against them. In its decision, the appellate court stated:

Under our state-created danger jurisprudence, we cannot find that defendants' failings amount to a state-created danger. We decline to expand the state-created danger doctrine—a narrow exception to the general rule that the state has no duty to protect its citizens from private harms—to embrace this case. Accordingly, we will reverse the order of the District Court denying qualified immunity to Horan and Angelotti and remand for proceedings consistent with this opinion.

Henry v. City of Erie, 2013 WL 4498669, *10 (footnote omitted). In its Judgment, issued the same date, the appellate court ordered that our order entered on September 28, 2011, was reversed and the matter remanded.

By letter dated September 16, 2013, this Court was provided certified copy of the Judgment and instructed that: "[t]he certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate."

Accordingly, in conformance with the above, this 17th day of September, 2013, it is hereby ORDERED, ADJUDGED, AND DECREED that Defendants John E. Horan and Joseph Angelotti are entitled to qualified immunity with respect to the Plaintiffs' §1983 state-created danger claim filed against them, their motion to dismiss [ECF#12] is granted to the extent they moved to dismiss Plaintiffs' §1983 state-created danger claim filed against them on the basis of qualified immunity, and the Clerk of Court is directed to terminate Defendant Horan and Angelotti from this action.


Maurice B. Cahill, Jr.
Senior District Court Judge