

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

DOUGLAS BASHAM,)	
)	
Plaintiff,)	2:13cv351
)	Electronic Filing
v.)	
)	Judge Cercone
PAROLE AGENT RONALD FINE,)	Chief Magistrate Judge Lenihan
PAROLE AGENT JOHN DOE,)	
BOARD SECRETARY KIMBERLY)	
BARKLEY,)	
)	
Defendants.)	

MEMORANDUM ORDER

The *pro se* Complaint in the above captioned case was received by the Clerk of Court in March, 2013, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D. The Complaint was amended in October, 2013 (ECF No. 13).

The June 5, 2014, Report and Recommendation (ECF No. 20) recommended that the Defendants' April 17, 2014, Motion to Dismiss Plaintiff's Amended Complaint for Failure to State a Claim (ECF No. 18) be granted as to dismissal of the claims against Defendant Barkley as a finding in Plaintiff's favor as to any such claims made (or potentially made under the facts set forth in the Complaint) would necessarily call Plaintiff's parole revocation into question and such claims are therefore barred under Heck v. Humphrey, 512 U.S. 477 (1994). The Report further recommended that, despite Plaintiff's failure to file a response in accordance with the Court's April 18, 2014, Text Order, the remainder of the Motion nonetheless be denied and that the case proceed to the summary judgment stage.

Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local

Rules of Court, that they had fourteen (14) days to file any objections. No objections have been filed, the time for objection has now expired, and Defendants have subsequently filed Answers in this case (ECF Nos. 20, 21).

Accordingly, after review of the pleadings and documents in the case, including the Report and Recommendation, the following Order is entered:

AND NOW, this 11 day of July, 2014,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 18) filed by Defendants is **GRANTED** as to dismissal of the claims against Defendant Barkley and **DENIED** in all other respects.

IT IS FURTHER ORDERED that the June 5, 2014, Report and Recommendation of Chief Magistrate Judge Lenihan is adopted as the Opinion of the Court.



David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
John C. Manning, Esquire
(Via CM/ECF Electronic Mail)

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