

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

FREDERICK BANKS, et al.,	)	
	)	
Plaintiffs,	)	Civil Action No. 2:15-cv-54
	)	
v.	)	Judge David Stewart Cercone
	)	Magistrate Judge Lisa Pupo Lenihan
NYPD, et al.,	)	
	)	
Defendants.	)	ECF Nos. 1, 2 & 3
	)	
	)	
	)	

**MEMORANDUM ORDER**

Plaintiff commenced this civil action on January 14, 2015 by hand-delivering to the Clerk's Office his Motion for Leave to Proceed *in forma pauperis* (ECF No. 1) on Form AO 240 (Rev. 7/10) Application to Proceed in District Court Without Prepaying Fees or Costs, along with a copy of the complaint and attachments thereto, and a civil cover sheet. At that same time, Mr. Banks also submitted for filing a Motion for Leave to Proceed *in forma pauperis* (ECF No. 2) on Form AO 240 for Plaintiff, Kenneth Posner. The case 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 Magistrate Judge's Report and Recommendation (ECF No. 3), filed on January 16, 2015, recommended that the Motions for Leave to Proceed *In Forma Pauperis* filed by Frederick Banks (ECF No. 1) and Kenneth Posner (ECF No. 2) be denied. Service of the Report and Recommendation was made via First Class Mail on

Frederick Banks at his address of record, P.O. Box 295, Pittsburgh, PA 15203, and on Kenneth Posner at his address of record, 47 Wyland Drive, Verona, NJ 07044-2330. Plaintiffs 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. Plaintiff Frederick Banks filed timely Objections to the Report and Recommendation (ECF No. 4) on January 27, 2015. The deadline for filing objections was February 2, 2015; Plaintiff Posner has not filed any objections to date.

Therefore, after a *de novo* review of the motions for leave to proceed *in forma pauperis* and attachments thereto, together with the Report and Recommendation and objections thereto, the following Order is entered:

**AND NOW**, this 9<sup>th</sup> day of February, 2015,

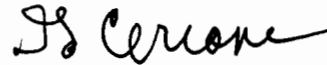
**IT IS HEREBY ORDERED** that the Motions for Leave to Proceed *In Forma Pauperis* filed by Plaintiff Frederick Banks (ECF No. 1) and Plaintiff Kenneth Posner (ECF No. 2) are **DENIED**, and the Clerk of Court is directed to mark this case **CLOSED**.

**IT IS FURTHER ORDERED** that if Plaintiff Frederick Banks wishes to continue to pursue this civil action, he must file a motion to reopen the case and submit either the required certification statement or the \$400 filing fee. In the event that Mr. Banks decides to proceed with this case by either submitting the required certification statement or paying the \$400 filing fee, the Court strongly urges him to revise his complaint to take into consideration the infirmities noted in the Magistrate Judge's Report and Recommendation (ECF No. 3).

**IT IS FURTHER ORDERED** that Kenneth Posner may not join in the lawsuit filed at Case No. 2:15-cv-54 with Frederick Banks, but must file a separate civil action setting forth his claims with sufficient facts to show entitlement to the relief he is requesting.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 3) of Magistrate Judge Lenihan, dated January 16, 2015, is adopted as the opinion of the Court.

BY THE COURT:



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DAVID STEWART CERCONE  
United States District Judge

cc: Frederick Banks  
P.O. Box 295  
Pittsburgh, PA 15230  
*Via First Class Mail*

Kenneth Posner  
47 Wyland Drive  
Verona, NJ 07044-2330  
*Via First Class Mail*