

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

JUSTIN SHARRATT)
1348 Lucia Drive)
Canonsburg, Pennsylvania 15317)

Plaintiff,)

vs.)

JOHN MURTHA,)
in his individual capacity,)
2238 Woodcrest Drive)
Johnstown, Pennsylvania 15905)

Defendant.)

Civil Action No. 3:08 – cv – 229

ANSWER TO GOVERNMENT’S MOTION TO DISMISS.

AND NOW COMES the Plaintiff, Justin Sharratt, by and through his attorney, Noah Geary, Esquire, and respectfully submits this Answer, and in support, avers as follows:

1. John Murtha is not entitled to qualified immunity because he violated Sharratt’s Constitutional Rights which were clearly-established at the times of the violations of those rights.
2. Sharratt’s Complaint sufficiently pleads violations of his Right to the Presumption of Innocence, his Due Process Rights of Property and Liberty, and his Right to the Equal Protection of the law.
3. Sharratt has plead and experienced cognizable damages in support of his Sixth Amendment Claim.
4. Sharratt does not ask this Court to “imply” a new Bivens “remedy”.
5. Sharratt’s lawsuit was not filed beyond the applicable statutes of limitations.

6. Sharratt hereby incorporates by reference into this Answer his Brief in Opposition, which is filed simultaneously with this Answer.

7. Sharratt further incorporates by reference into this Answer an Affidavit, attached hereto as an Exhibit.

WHEREFORE, for any and all of the above reasons, the Government's Motion to Dismiss must be denied.

June 19, 2009

Respectfully submitted,

/s/ Noah Geary
Noah Geary, Esquire
Attorney for Plaintiff
225 Washington Trust Building
Washington, PA 15301
(724) 222-3788
PA I.D. # 78283

CERTIFICATE OF SERVICE.

I, Noah Geary, hereby certify that I served the foregoing **Answer** upon Defense Counsel,
Paul Werner, Esquire, on this day, via email:

Paul E. Werner, Esquire
U.S. Department of Justice
1425 New York Avenue, N.W.
Washington, DC 20005
paul.werner@usdoj.gov

Date: June 19, 2009

/s/ Noah Geary
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