

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2729

AARON J. BRESSI,
Appellant

v.

JEFFERY BRENNEN; EDWARD PURCELL; CHRISTOPHER LAPOTSKIE;
CHAD YODER; CHRISTOPHER WILLIAMS; CHIEF WILLIAM CARPENTER;
TERRY KECHEM, Coal Township Police Officer; and
PATROLMAN ADAMS, Coal Township Police Officer

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(M.D. Pa. Civ. No. 4:17-cv-01742)
District Judge: Honorable Matthew W. Brann

Submitted Pursuant to Third Circuit LAR 34.1(a)
May 23, 2023
Before: JORDAN, CHUNG, and NYGAARD, Circuit Judges

JUDGMENT


This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on May 23, 2023. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered August 31, 2022, be and the same is hereby affirmed. Costs taxed against the Appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: May 24, 2023

The seal of the United States Court of Appeals for the Third Circuit is circular. It features an eagle with spread wings perched on a shield. Above the eagle is a constellation of stars. The words "UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT" are inscribed around the perimeter of the seal.
Certified to be a true copy and issued in lieu
of a formal mandate on July 21, 2023

Teste: 
Clerk, U.S. Court of Appeals for the Third Circuit

APPX.

B

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

AARON J. BRESSI,

Plaintiff,

v.

JEFFERY BRENNEN, *et al.*,

Defendants.

No. 4:17-CV-01742

(Chief Judge Brann)

ORDER

AUGUST 4, 2022

AND NOW, upon consideration of Plaintiff's motion¹ to "refile this case and use all original filings," and the Court observing that this case was dismissed with prejudice and closed in September 2019,² and that Plaintiff's appeal to the United States Court of Appeals for the Third Circuit was denied in August 2020,³ and the Court further observing that Plaintiff has failed to include any reasoning, argument, or citation to legal authority for his request to "refile" this case, **IT IS HEREBY ORDERED** that Plaintiff's motion (Doc. 83) to "refile" is **DENIED**.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge

¹ Doc. 83.

² See Doc. 77.

³ See Docs. 81, 82.

(Page 1) 27th Day of July 2022

Case No. 4:17-cv-1742 {COPY}

Attn: Office of the Clerk

United States District Court

Aaron J. Bressi - Plaintiff
V.

Jeffery Brennen, et al. - Defendants

Case No. 4:17-cv-1742

FILED
WILLIAMSPORT

(Letter Motion)

DEF AUG 01 2022

PER NR
DEPUTY CLERK

I Aaron J. Bressi am asking this Honorable United States District Court, to grant Plaintiff's letter-motion and allow Plaintiff to refile this Case and use all original filings/records already on file under Case No. 4:17-cv-1742, including all exhibits on file as evidence in Support of Case.

Thank You, Aaron Bressi
Case No. 4:17-cv-1742 (7-27-22)

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

AARON J. BRESSI,

Plaintiff,

v.

JEFFERY BRENNEN, *et al.*,

Defendants.

No. 4:17-CV-01742

(Chief Judge Brann)

ORDER

AUGUST 31, 2022

AND NOW, upon consideration of Plaintiff's second motion¹ to "refile this case using all original filings," and the Court observing that this case was dismissed with prejudice and closed in September 2019,² and that Plaintiff's appeal to the United States Court of Appeals for the Third Circuit was denied in August 2020,³ and the Court further observing that Plaintiff has failed to establish any basis to reopen this case, **IT IS HEREBY ORDERED** that Plaintiff's second motion (Doc. 85) to "refile" is **DENIED**. The Court will not entertain any further motions "to refile" in this matter.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge

¹ Doc. 85.

² See Doc. 77.

³ See Docs. 81, 82.

(Page 1) 22nd Day of Aug. 2022

Case No. 4:17-cv-1742

Attn: Office of the Clerk

United States
District Court

FILED
WILLIAMSPORT
AUG 26 2022
PER 09
DEPUTY CLERK

Aaron J. Bressi - Plaintiff
V.

Jeffery Brennen, et al. - Defendants

Case No. 4:17-cv-1742

Motion: To Refile;
Case No. 4:17-cv-1742.

Brief: In Support also
attached.

1. I Aaron J. Bressi ask this Honorable United States District Court, to grant this motion to refile this Case using all original filings/records already on file under Case No. 4:17-cv-1742, including all (Exhibits) already on file as evidence in Support of Case.

(Page 2) 22nd Day of Aug. 2022
Case No. 4:17-CV-1742

2. I Aaron J. Bressi without a doubt, 100% can refile this Case through this Honorable United States District Court due to this Case was dismissed with prejudice, through this Honorable Court Pursuant to Fed. R. Civ. P.

Thank You,
Aaron Bressi
(8-22-22)
Case No. 4:17-CV-1742

(Page 1) 22nd Day of Aug. 2022

Case No. 4:17-CV-1742

Attn: Office of the Clerk

Brief: In Support of
Motion to Refile Case
4:17-CV-1742.

FILED
WILLIAMSPORT
AUG 26 2022
PER [Signature]
DEPUTY CLERK

I Aaron J. Bressi without
a doubt can refile this
Case through this Honorable
United States District Court
Using all original filings/
records / Exhibits already
on file as evidence in
Support of Case.

This is due to this
Case was dismissed through
this Honorable Court Originally
with prejudice. (See)
Erickson V. Pardus, 551 U.S.
89, 94, 127 S. Ct. 2197, 167 L.
Ed. 2d 1081 (2007). (see also)
Poulis V. State Farm Fire &
Cas. Co., 747 F.2d 863,
868 (3d Cir. 1984).

Also due to the Serious
nature of the Civil Rights

(Page 2) 22nd Day of Aug. 2022

Case No. 4:17-CV-1742

Violations / Crimes
Committed against Plaintiff
by these defendants,
which pursuant to Fed.
R. Civ. P. 15(a)(2), this
motion should be granted
because, Justice so Requires,
as a matter of law.

(See) Zavec, et al., V.
Collins, Gist, and City of
Wilkes-Barre, No. 3:16-CV
-00347, 2018 U.S. Dist.
LEXIS 29240 (M.D. Pa.
Feb. 23, 2018). (See also)
Fed. R. Civ. P. 15(c), "Id.;
Bensel V. Allied Pilots Ass'n,
387 F.3d 298, 309-10 (3d
Cir. 2004).

Thank You,
Aaron Bressi
(8-22-22)

Case No. 4:17-CV-1742

APPX.

C

APPEAL,CLOSED,PROSREF,WMSPT,WVSENT

**United States District Court
Middle District of Pennsylvania (Williamsport)
CIVIL DOCKET FOR CASE #: 4:17-cv-01742-MWB**

Bressi v. Brennen et al
Assigned to: Honorable Matthew W. Brann
Case in other court: Third Circuit, 19-03199
Cause: 42:1983 Civil Rights Act

Date Filed: 09/26/2017
Date Terminated: 09/13/2019
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Aaron J. Bressi

represented by **Aaron J. Bressi**
MC9898
SCO Rockview
SPECIAL MAIL - OPEN ONLY IN
THE PRESENCE OF THE INMATE
PO Box A
Bellefonte, PA 16823
PRO SE

V.

Defendant

Jeffery Brennen

represented by **Donald L. Carmelite**
Marshall, Dennehey, Warner, Coleman
& Goggin
100 Corporate Center Drive
Suite 201
Camp Hill, PA 17011
717-651-3504
Fax: 717-651-3707
Email: dlcarmelite@mdwgcg.com
ATTORNEY TO BE NOTICED

Defendant

Edward Purcell

represented by **Donald L. Carmelite**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Christopher Lapotskie

represented by **Donald L. Carmelite**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Chad Yoder

represented by **Donald L. Carmelite**

TERMINATED: 08/02/2019(See above for address)
*ATTORNEY TO BE NOTICED***Defendant****Christopher Williams***TERMINATED: 08/02/2019*represented by **Donald L. Carmelite**
(See above for address)
*ATTORNEY TO BE NOTICED***Defendant****Chief William Carpenter***TERMINATED: 08/02/2019*represented by **Donald L. Carmelite**
(See above for address)
*ATTORNEY TO BE NOTICED***Defendant****Terry Kechem***Coal Township Police Officer**TERMINATED: 08/02/2019***Defendant****Patrolman Adams***Coal Township Police Officer**TERMINATED: 08/02/2019*

| Date Filed | # | Docket Text |
|-------------------|-----------|--|
| 11/27/2019 | | Receipt of payment from AARON J BRESSI in the amount of \$37.38 for PLRA CIVIL FILING FEE. Transaction posted on 11/27/2019. Receipt number 333068797 processed by kfuller. (tp) (Entered: 11/27/2019) |
| 09/25/2019 | <u>79</u> | NOTICE OF APPEAL in PRISONER Case as to <u>77</u> Order Adopting Report and Recommendations by Aaron J. Bressi. Filing Fee and Docket Fee NOT PAID. Filing fee \$ 505 The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (lg) (Entered: 09/25/2019) |
| 09/16/2019 | <u>78</u> | Document filed by Aaron J. Bressi entitled "motion: for compel/to rule on plaintiff's motion already filed" re doc #67) (lg) (Entered: 09/16/2019) |
| 09/13/2019 | <u>77</u> | ORDER ADOPTING REPORT AND RECOMMENDATION - IT IS HEREBY ORDERED that <u>73</u> Magistrate Jude Saporito's Report and Recommendation is adopted; <u>48</u> Motion to Dismiss for Failure to State a Claim is granted; Clerk directed to close this case.Signed by Honorable Matthew W. Brann on 9/13/19. (case closed)(lg) (Entered: 09/13/2019) |
| 08/22/2019 | <u>76</u> | OBJECTIONS by Aaron J. Bressi. to <u>72</u> Order on Motion to Appoint Counsel. (nr) (Entered: 08/22/2019) |
| 08/19/2019 | <u>75</u> | OBJECTION to <u>73</u> Report and Recommendations. (nr) (Entered: 08/19/2019) |
| | | |

| | | |
|------------|-----------|---|
| 08/07/2019 | <u>74</u> | EXHIBIT "H" by Aaron J. Bressi re <u>57</u> Amended Complaint. (nr) (Entered: 08/07/2019) |
| 08/05/2019 | <u>73</u> | REPORT AND RECOMMENDATIONS re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>re: Plaintiff's Amended Complaint</i> filed by William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder, Jeffery Brennen. For the foregoing reasons, it is hereby recommended that the amended complaint (Doc. 46) be dismissed with prejudice for failure to state a claim upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.. Objections to R&R due by 8/23/2019Signed by Magistrate Judge Joseph F. Saporito, Jr on 8/5/19. (ms) (Entered: 08/05/2019) |
| 08/05/2019 | <u>72</u> | ORDER denying <u>67</u> Motion to Appoint Counsel Signed by Magistrate Judge Joseph F. Saporito, Jr on 8/5/19 (ms) (Entered: 08/05/2019) |
| 08/05/2019 | <u>71</u> | AMENDED ORDER re <u>69</u> Order - (1) This amended order supersedes and replaces our previous Order docketed as Doc. 69 on 8/2/19. (2) Plaintiff's motion for leave to file a second amended complaint (Doc. 59) is DENIED AS FUTILE.Signed by Magistrate Judge Joseph F. Saporito, Jr on 8/5/19. (ms) (Entered: 08/05/2019) |
| 08/02/2019 | <u>70</u> | ORDER re <u>46</u> Amended Complaint filed by Aaron J. Bressi. IT IS HEREBY ORDERED THAT, having exceeded the scope of leave to amend as granted by the Courts Order of July 26, 2018:1.The last eleven lines of page 1 of the amended complaint (Doc. 46, at 1 ll. 717), the entirety of pages 2 through 9 of the amended complaint (id. at 29), the first seven lines of page 10 of the amended complaint (id. at 10 ll. 17), the last ten lines of page 21 of the amended complaint (id. at 21 ll. 1625), the entirety of pages 21 through 23 of the amended complaint (id. at 2123), the first two lines of page 24 of the amended complaint (id. at 24 ll. 12), and Exhibits A, C, D, E, and F to the amended complaint (Doc. 46-1, at 14, 1061) shall be STRUCK from the pleading;2.The Clerk shall TERMINATE Officer Chad Yoder, Officer Christopher Williams, and Chief William Carpenter as parties to this action; and3.The remainder of the amended complaint (Doc. 46), asserting a § 1983 claim of excessive force, shall be permitted to proceed as against the original three defendants, Officer Jeffery Brennan, Officer Edward Purcell, and Officer Christopher Lapotsky, subject to disposition of the pending motion to dismiss filed by the defendants (Doc. 48).Signed by Magistrate Judge Joseph F. Saporito, Jr on 8/2/19. (ms) (Entered: 08/02/2019) |
| 08/02/2019 | <u>69</u> | [SUPERSEDED AND REPLACED BY DOC. 71 ORDER OF 8/5/19] ORDER re <u>57</u> Amended Complaint, filed by Aaron J. Bressi - Liberally construing as a motion for leave to file second amended complaint, DENYING as futile. Signed by Magistrate Judge Joseph F. Saporito, Jr on 8/2/19. (ms) Modified on 8/5/2019 (ms). (Entered: 08/02/2019) |
| 07/19/2019 | <u>68</u> | BRIEF IN OPPOSITION re <u>67</u> MOTION to Appoint Counsel filed by Jeffery Brennen, William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder.(Carmelite, Donald) (Entered: 07/19/2019) |
| | | |

| | | |
|------------|-----------|--|
| 07/05/2019 | <u>67</u> | MOTION to Appoint Counsel by Aaron J. Bressi.(kw) (Entered: 07/05/2019) |
| 04/03/2019 | <u>66</u> | EXHIBIT "G" by Aaron J. Bressi re <u>57</u> Amended Complaint. (nr) (Entered: 04/03/2019) |
| 03/14/2019 | <u>65</u> | BRIEF IN SUPPORT re <u>59</u> MOTION to Amend/Correct filed by Aaron J. Bressi.(nr) (Entered: 03/14/2019) |
| 03/08/2019 | <u>64</u> | U.S. MARSHAL 285 FORM received by plaintiff. (nr) (Entered: 03/08/2019) |
| 02/26/2019 | <u>63</u> | ORDER granting <u>62</u> Motion for Extension of Time to File Response/Reply re <u>59</u> MOTION to Amend/Correct Reply Brief due by 3/18/2019.Signed by Magistrate Judge Joseph F. Saporito, Jr on 2/26/19 (ms) (Entered: 02/26/2019) |
| 02/25/2019 | <u>62</u> | MOTION for Extension of Time to File Brief to <u>61</u> Brief in Opposition, filed by Aaron J. Bressi, Pro Se.(nr) (Entered: 02/25/2019) |
| 02/08/2019 | <u>61</u> | BRIEF IN OPPOSITION re <u>59</u> MOTION to Amend/Correct <i>Plaintiff's Motion for Leave to File a Second Amended Complaint</i> filed by Jeffery Brennen, William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder. (Attachments: # <u>1</u> Exhibit(s) 1 - CR-961-2015, # <u>2</u> Exhibit(s) 2 - CR-962-2015, # <u>3</u> Exhibit(s) 3 - 1791 MDA 2016) (Carmelite, Donald) (Entered: 02/08/2019) |
| 02/04/2019 | <u>60</u> | EXHIBIT "E" by Aaron J. Bressi re <u>57</u> Amended Complaint. (Attachments: # <u>1</u> Letter regarding exhibits)(nr) (Entered: 02/04/2019) |
| 01/31/2019 | <u>59</u> | MOTION to Amend/Correct by Aaron J. Bressi.(ms) (Entered: 01/31/2019) |
| 01/31/2019 | <u>58</u> | ORDER re <u>57</u> Amended Complaint filed by Aaron J. Bressi -defendants shall file any brief in opposition to Doc. 57 within 14 days after date of this Order; plaintiff may file his reply brief within 14 days after service of brief in opposition. Signed by Magistrate Judge Joseph F. Saporito, Jr on 1/31/19. (ms) (Entered: 01/31/2019) |
| 01/30/2019 | <u>57</u> | PROPOSED SECOND AMENDED COMPLAINT against All Defendants, filed by Aaron J. Bressi. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit F, # <u>6</u> Transmittal Letter re Amendments to complaint)(nr) Modified on 1/31/2019 (ms). (Entered: 01/30/2019) |
| 11/28/2018 | <u>56</u> | REPLY BRIEF re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re: <i>Plaintiff's Amended Complaint</i> filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell.(Carmelite, Donald) (Entered: 11/28/2018) |
| 11/20/2018 | <u>55</u> | BRIEF IN OPPOSITION re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Aaron J. Bressi. (Attachments: # <u>1</u> continuation) (lg) (Entered: 11/20/2018) |
| 10/23/2018 | <u>54</u> | ORDER granting <u>53</u> Motion for Extension of Time to File Response/Reply re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re: |

| | | |
|------------|-----------|---|
| | | <i>Plaintiff's Amended Complaint</i> Brief in Opposition due by 11/19/2018 Signed by Magistrate Judge Joseph F. Saporito, Jr on 10/23/18 (ms) (Entered: 10/23/2018) |
| 10/22/2018 | <u>53</u> | MOTION for Extension of Time to File Brief to <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re <i>Plaintiff's Amended Complaint</i> filed by Aaron J. Bressi.(lg) (Entered: 10/22/2018) |
| 09/28/2018 | <u>52</u> | ORDER re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re: <i>Plaintiff's Amended Complaint</i> filed by William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder, Jeffery Brennen, <u>51</u> Letter - defendants shall serve a second copy of their Doc. 48 motin to dismiss and Doc. 49 brief in support upon plaintiff by mail as soon as practicable, but no later than 10/5/18. Plaintiff shall file and serve his brief in response to the motion on or before 10/19/18 Signed by Magistrate Judge Joseph F. Saporito, Jr on 9/28/18. (ms) (Entered: 09/28/2018) |
| 09/26/2018 | <u>51</u> | Letter from Aaron Bressi that he has not yet received the motion to dismiss, etc. (lg) (Entered: 09/26/2018) |
| 09/24/2018 | <u>50</u> | Letter from Aaron Bressi re filing fee deductions from his inmate account. (lg) (Entered: 09/24/2018) |
| 09/13/2018 | | Receipt of payment from AARON J BRESSI in the amount of \$33.36 for PLRA CIVIL FILING FEE. Transaction posted on 9/12/2018. Receipt number 333062191 processed by rmiller. (jjs,) (Entered: 09/13/2018) |
| 09/13/2018 | <u>49</u> | BRIEF IN SUPPORT re <u>48</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re: <i>Plaintiff's Amended Complaint</i> filed by Jeffery Brennen, William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder.(Carmelite, Donald) (Entered: 09/13/2018) |
| 09/11/2018 | <u>48</u> | MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re: <i>Plaintiff's Amended Complaint</i> by Jeffery Brennen, William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder. (Attachments: # <u>1</u> Proposed Order re: Motion to Dismiss Plaintiff's Amended Complaint)(Carmelite, Donald) (Entered: 09/11/2018) |
| 09/11/2018 | <u>47</u> | NOTICE of Appearance by Donald L. Carmelite on behalf of Jeffery Brennen, William Carpenter, Christopher Lapotskie, Edward Purcell, Christopher Williams, Chad Yoder (Carmelite, Donald) (Entered: 09/11/2018) |
| 08/28/2018 | <u>46</u> | AMENDED COMPLAINT against Jeffery Brennen, Christopher Lapotskie, Edward Purcell, Chad Yoder, Christopher Williams, William Carpenter, filed by Aaron J. Bressi. (Attachments: # <u>1</u> Exhibit(s))(lg) (Entered: 08/28/2018) |
| 08/07/2018 | | Receipt of payment from AARON BRESSI in the amount of \$20.00 for PLRA CIVIL FILING FEE. Transaction posted on 8/6/2018. Receipt number 333061745 processed by gangeli. (jjs,) (Entered: 08/07/2018) |
| 07/26/2018 | <u>45</u> | ORDER ADOPTING REPORT AND RECOMMENDATION - IT IS |

| | | |
|------------|-----------|---|
| | | HEREBY ORDERED that Magistrate Judge Saporito's <u>41</u> Report and Recommendation is ADOPTED in its entirety; Defendants' <u>20</u> Motion to Dismiss is GRANTED; Plaintiff's Complaint is DISMISSED; Plaintiff's <u>27</u> <u>37</u> <u>38</u> motions for summary judgment are DENIED AS MOOT; Plaintiff is granted leave to amend only the excessive force claim that has dismissed without prejudice. If an amended complaint is not filed within 30 days of the date of this Order, however, those claims will be dismissed with prejudice, and the Clerk of Court will be directed to close this case. This matter is remanded to Magistrate Judge Saporito for further proceedings. Signed by Honorable Matthew W. Brann on 7/26/2018. (jr) (Entered: 07/26/2018) |
| 07/25/2018 | <u>44</u> | BRIEF IN OPPOSITION re <u>41</u> REPORT AND RECOMMENDATIONS re <u>38</u> MOTION for Judgment filed by Aaron J. Bressi, <u>1</u> Complaint filed by Aaron J. Bressi, <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> filed by Christopher Lapotskie, Edward Purcell, Jeffery Brennen, filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell.(Carmelite, Donald) (Entered: 07/25/2018) |
| 07/18/2018 | <u>43</u> | OBJECTION to <u>41</u> Report and Recommendation (entitled "motion to object") by Aaron Bressi. (lg) (Entered: 07/18/2018) |
| 07/17/2018 | | Receipt of payment from ARRON BRESSI in the amount of \$40.74 for PLRA CIVIL FILING FEE. Transaction posted on 7/16/2018. Receipt number 333061469 processed by gangeli. (jjs,) (Entered: 07/17/2018) |
| 07/12/2018 | <u>42</u> | Letter to Clerk from Aaron Bressi asking the Court to take the briefs on file in support of summary judgment motions and the briefs on file in response to summary judgment motions and also brief in support of judgment/direct verdict motion and consolidate them into one brief in response to defendants motion to dismiss, OR to grant an extension of time to respond to defendants motion to dismiss. (lg) (Entered: 07/12/2018) |
| 07/06/2018 | <u>41</u> | REPORT AND RECOMMENDATIONS re <u>38</u> MOTION for Judgment filed by Aaron J. Bressi, <u>1</u> Complaint filed by Aaron J. Bressi, <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> filed by Christopher Lapotskie, Edward Purcell, Jeffery Brennen, <u>27</u> MOTION for Summary Judgment filed by Aaron J. Bressi.For the foregoing reasons, it is recommended that:1.The defendants motion to dismiss (Doc. 20) be GRANTED;2.The complaint (Doc. 1) be DISMISSED for failure to state a claim, pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure;3.The plaintiff be granted leave to file an amended complaint within a specified period of time following dismissal of the complaint; 4.The plaintiffs motions for summary judgment (Doc. 27; Doc. 37; Doc. 38) be DENIED as MOOT;5.The Clerk be directed to CLOSE this case if an amended complaint is not timely filed; and6.This matter be remanded to the undersigned for further proceedings, if any. Objections to R&R due by 7/25/2018Signed by Magistrate Judge Joseph F. Saporito, Jr on 7/6/18. (ms) (Entered: 07/06/2018) |
| 07/03/2018 | <u>40</u> | ORDER re <u>24</u> Brief in Opposition filed by Aaron J. Bressi - construing as motion for leave to amend complaint, DENYING without prejudice.Signed by Magistrate Judge Joseph F. Saporito, Jr on 7/3/18. (ms) (Entered: 07/03/2018) |

| | | |
|------------|-----------|---|
| 06/19/2018 | <u>39</u> | BRIEF IN OPPOSITION re <u>38</u> MOTION for Judgment / <i>Direct Verdict</i> filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell.(Carmelite, Donald) (Entered: 06/19/2018) |
| 06/11/2018 | <u>38</u> | MOTION for Judgment/direct verdict against defendants by Aaron J. Bressi. (lg) (Entered: 06/12/2018) |
| 06/08/2018 | | Receipt of payment from SCI ROCKVIEW in the amount of \$34.13 for PLRA CIVIL FILING FEE. Transaction posted on 6/7/2018. Receipt number 333060903 processed by epetrosk. (jjs,) (Entered: 06/08/2018) |
| 05/10/2018 | | Receipt of payment from AARON J BRESSI in the amount of \$34.00 for PLRA CIVIL FILING FEE. Transaction posted on 5/9/2018. Receipt number 333060534 processed by rmiller. (jjs,) (Entered: 05/10/2018) |
| 05/08/2018 | | Receipt of payment from AARON BRESSI in the amount of \$6.58 for PLRA CIVIL FILING FEE. Transaction posted on 5/7/2018. Receipt number 333060515 processed by gangeli. (jjs,) (Entered: 05/08/2018) |
| 05/07/2018 | <u>37</u> | Letter to Court from Aaron Bressi re motion for summary judgment (lg) (Entered: 05/07/2018) |
| 04/12/2018 | | Receipt of payment from AARON BRESSI in the amount of \$36.00 for PLRA CIVIL FILING FEE. Transaction posted on 4/9/2018. Receipt number 333060109 processed by gangeli. (jjs,) (Entered: 04/12/2018) |
| 04/11/2018 | <u>36</u> | NOTICE of Change of Address by Aaron J. Bressi (address updated to SCI Rockview) (lg) (Entered: 04/11/2018) |
| 04/05/2018 | <u>35</u> | BRIEF IN SUPPORT re <u>27</u> MOTION for Summary Judgment filed by Aaron J. Bressi.(lg) (Entered: 04/05/2018) |
| 04/03/2018 | <u>34</u> | ORDER finding as moot <u>33</u> Motion for Extension of Time to File Response/Reply Signed by Magistrate Judge Joseph F. Saporito, Jr on 4/3/18 (ms) (Entered: 04/03/2018) |
| 04/02/2018 | <u>33</u> | MOTION for Extension of Time to File Brief to <u>27</u> MOTION for Summary Judgment, <u>29</u> Order, filed by Aaron J. Bressi.(kw) (Entered: 04/02/2018) |
| 03/26/2018 | <u>32</u> | ORDER granting <u>31</u> Motion for Extension of Time to File support brief re <u>27</u> MOTION for Summary Judgment Brief in support due by 4/26/2018. Signed by Magistrate Judge Joseph F. Saporito, Jr on 3/26/18 (ms) Modified on 3/26/2018 (ms). (Entered: 03/26/2018) |
| 03/23/2018 | <u>31</u> | MOTION for Extension of Time to File Brief filed by Aaron J. Bressi. (Attachments: # <u>1</u> letter)(lg) (Entered: 03/23/2018) |
| 03/22/2018 | <u>30</u> | U.S. MARSHAL - 285, AO 398 and AO 399 Service Forms Completed by Plaintiff for "Chris Williams (Coal Township Police Department)" and "Chad Yoder (Coal Township Police Department)". (lg) (Entered: 03/22/2018) |
| 03/12/2018 | <u>29</u> | ORDER re <u>27</u> MOTION for Summary Judgment filed by Aaron J. Bressi. Plaintiff shall file a brief in support of Doc. motion, together with a statement of undisputed material facts, within 14 days of the date of this Order or the |

| | | |
|------------|-----------|--|
| | | motion will be deemed withdrawn. Signed by Magistrate Judge Joseph F. Saporito, Jr on 3/12/18. (ms) (Entered: 03/12/2018) |
| 03/09/2018 | | Receipt of payment from SCI CAMP HILL in the amount of \$20.00 for PLRA CIVIL FILING FEE. Transaction posted on 3/8/2018. Receipt number 333059618 processed by epetrosk. (jjs,) (Entered: 03/09/2018) |
| 02/28/2018 | <u>28</u> | BRIEF IN OPPOSITION re <u>27</u> MOTION for Summary Judgment filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell.(Carmelite, Donald) (Entered: 02/28/2018) |
| 02/12/2018 | <u>27</u> | MOTION for Summary Judgment by Aaron J. Bressi.(lg) (Entered: 02/13/2018) |
| 02/06/2018 | | Receipt of payment from AARON J BRESSI in the amount of \$33.00 for PLRA CIVIL FILING FEE. Transaction posted on 2/5/2018. Receipt number 333059116 processed by lhannick. (jjs,) (Entered: 02/06/2018) |
| 02/05/2018 | <u>26</u> | NOTICE of Change of Address by Aaron J. Bressi. Address has been updated on Docket to reflect changes. (kw) (Entered: 02/05/2018) |
| 01/24/2018 | <u>25</u> | REPLY BRIEF re <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell. (Attachments: # <u>1</u> Exhibit(s) A - Northumberland County CCP Criminal Docket CP-49-CR-000961-2015, # <u>2</u> Exhibit(s) B - Northumberland County CCP Criminal Docket CP-49-CR-000962-2015, # <u>3</u> Exhibit(s) C - Pennsylvania Superior Court Memorandum, # <u>4</u> Exhibit(s) D - Northumberland County CCP Criminal Docket CP-49-CR-0001513-2016, # <u>5</u> Exhibit(s) E - Superior Court of Pennsylvania Appeal Docket 1887 MDA 2017)(Carmelite, Donald) (Entered: 01/24/2018) |
| 01/11/2018 | <u>24</u> | BRIEF IN OPPOSITION (entitled "motion to have defendants motion to dismiss complaint withdrawn...") re <u>20</u> MOTION to Dismiss Plaintiff's Complaint filed by Aaron J. Bressi. (Attachments: # <u>1</u> Exhibit(s))(lg) (Entered: 01/11/2018) |
| 01/08/2018 | | Receipt of payment from AARON J BRESSI in the amount of \$35.19 for PLRA CIVIL FILING FEE. Transaction posted on 1/5/2018. Receipt number 333058683 processed by lhannick. (jjs,) (Entered: 01/08/2018) |
| 12/28/2017 | <u>23</u> | BRIEF IN SUPPORT of <i>their Motion to Dismiss Plaintiff's Complaint</i> re <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> filed by Jeffery Brennen, Christopher Lapotskie, Edward Purcell. (Attachments: # <u>1</u> Certificate of Word Count, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) D, # <u>6</u> Exhibit(s) E)(Carmelite, Donald) (Entered: 12/28/2017) |
| 12/21/2017 | <u>22</u> | Copy Request Received from Aaron Bressi (note: complaint and docket sheet sent w/note re future copies to be paid for in advance) (lg) (Entered: 12/21/2017) |
| 12/19/2017 | <u>21</u> | by Jeffery Brennen, Christopher Lapotskie, Edward Purcell. <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint and Proposed Order re: Motion to Dismiss.</i> (Carmelite, Donald) (Entered: 12/19/2017) |
| | | |

| | | |
|------------|-----------|---|
| 12/18/2017 | <u>20</u> | MOTION to Dismiss <i>Plaintiff's Complaint</i> by Jeffery Brennen, Christopher Lapotskie, Edward Purcell.(Carmelite, Donald) (Entered: 12/18/2017) |
| 12/14/2017 | <u>19</u> | ORDER denying <u>18</u> Motion for leave to amend complaint without prejudice to plaintiff's filing of a subsequent motion for leave to amend, properly supported by the contemporaneous submission of his proposed amended complaint. Signed by Magistrate Judge Joseph F. Saporito, Jr on 12/14/17 (ms) (Entered: 12/14/2017) |
| 12/11/2017 | <u>18</u> | MOTION "to amend suit/relief of case" by Aaron J. Bressi.(lg) (Entered: 12/11/2017) |
| 12/06/2017 | | Receipt of payment from AARON J BRESSI in the amount of \$26.00 for PLRA CIVIL FILING FEE. Transaction posted on 12/5/2017. Receipt number 333058292 processed by lhannick. (jjs,) (Entered: 12/06/2017) |
| 11/29/2017 | <u>17</u> | ORDER denying <u>16</u> Motion to Amend/Correct without prejudice to his filing of a subsequent, and properly supported, motion for leave to amend. Signed by Magistrate Judge Joseph F. Saporito, Jr on 11/29/17 (ms) (Entered: 11/29/2017) |
| 11/28/2017 | <u>16</u> | MOTION to Amend/Correct by Aaron J. Bressi.(ms) (Entered: 11/28/2017) |
| 11/21/2017 | <u>15</u> | ORDER striking <u>14</u> Motion for Summary Judgment as premature and improperly filed, without prejudice to plaintiff's right to file an appropriate motion for summary judgment after service of process and the close of discovery. See Order for complete details. Signed by Magistrate Judge Joseph F. Saporito, Jr on 11/21/17 (ms) (Entered: 11/21/2017) |
| 11/17/2017 | <u>14</u> | [STRICKEN FROM THE RECORD PER DOC. 15 ORDER] MOTION for Summary Judgment by Aaron J. Bressi.(lg) Modified on 11/21/2017 (ms). (Entered: 11/20/2017) |
| 11/16/2017 | <u>13</u> | WAIVER OF SERVICE Returned by Christopher Lapotskie, Edward Purcell, Jeffery Brennen. Christopher Lapotskie waiver sent on 10/17/2017, answer due 12/18/2017; Edward Purcell waiver sent on 10/17/2017, answer due 12/18/2017; Jeffery Brennen waiver sent on 10/17/2017, answer due 12/18/2017. (Carmelite, Donald) (Entered: 11/16/2017) |
| 11/14/2017 | <u>12</u> | NOTICE of Appearance by Donald L. Carmelite on behalf of Jeffery Brennen, Christopher Lapotskie, Edward Purcell (Carmelite, Donald) (Entered: 11/14/2017) |
| 11/06/2017 | | Receipt of payment from AARON J BRESSI in the amount of \$5.00 for PLRA CIVIL FILING FEE. Transaction posted on 11/3/2017. Receipt number 333057833 processed by lhannick. (tp) (Entered: 11/06/2017) |
| 10/24/2017 | | Receipt of payment from AARON BRESSI in the amount of \$26.00 for PLRA CIVIL FILING FEE. Transaction posted on 10/23/2017. Receipt number 333057672 processed by gangeli. (jjs,) (Entered: 10/24/2017) |
| 10/13/2017 | <u>11</u> | Waiver of Service forms (AO 398 and 399) Mailed to Jeffery Brennen, Christopher Lapotskie, Edward Purcell along with Order dated 10/12/2017 and Complaint (Doc. 1). Waiver of Service due by 11/13/2017. (bg) |

| | | |
|------------|-----------|---|
| | | (Entered: 10/13/2017) |
| 10/13/2017 | <u>10</u> | ADMINISTRATIVE ORDER sent to Prison Superintendent/Warden.Signed by Deputy Clerk on 10/13/2017. (bg) (Entered: 10/13/2017) |
| 10/12/2017 | <u>9</u> | ORDER DIRECTING THE CLERK'S OFFICE TO SEND AO 398 AND 399 WAIVERS FORMS to defendants. ; granting <u>2</u> Motion for Leave to Proceed in forma pauperisSigned by Magistrate Judge Joseph F. Saporito, Jr on 10/12/17. (ms) (Entered: 10/12/2017) |
| 10/10/2017 | <u>8</u> | Inmate Account Statement re Aaron J. Bressi. (bg) (Entered: 10/10/2017) |
| 10/06/2017 | <u>7</u> | U.S. MARSHAL 285 FORM to be attached to complaint when served by USM (lg) (Entered: 10/06/2017) |
| 09/28/2017 | <u>6</u> | ORDER - within 15 days of the date of this Order, the Warden shall provide to the Court a statement of the current balance in plaintiff's inmate account and a record of the transactions in his account that have occurred within the preceding 6 months.Signed by Magistrate Judge Joseph F. Saporito, Jr on 9/28/17. (ms)(Copy of Order mailed to SCI-Coal Township from Chambers) (Entered: 09/28/2017) |
| 09/27/2017 | <u>5</u> | PRO SE LETTER ISSUED w/ Notice & Consent Form. (lg) (Entered: 09/27/2017) |
| 09/27/2017 | <u>4</u> | STANDING PRACTICE ORDER (lg) (Additional attachment(s) added on 9/27/2017: # <u>2</u> 285 Service Packet) (lg). (Entered: 09/27/2017) |
| 09/26/2017 | <u>3</u> | PRISONER AUTHORIZATION by Aaron J. Bressi allowing prison to submit copy of prisoner's trust fund account to the court, and approving the entire filing fee to be deducted from prisoner inmate account. (lg) (Entered: 09/27/2017) |
| 09/26/2017 | <u>2</u> | MOTION/application for Leave to Proceed in forma pauperis by Aaron J. Bressi.(lg) (Entered: 09/27/2017) |
| 09/26/2017 | <u>1</u> | COMPLAINT against All Defendants, filed by Aaron J. Bressi.(lg) (Entered: 09/27/2017) |

APPX.

D

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2729

AARON J. BRESSI,
Appellant

v.

JEFFERY BRENNEN; EDWARD PURCELL; CHRISTOPHER LAPOTSKIE;
CHAD YODER; CHRISTOPHER WILLIAMS; CHEF WILLIAM CARPENTER;
TERRY KECHEM, Coal Township Police Officer; PATROLMAN ADAMS,
Coal Township Police Officer

(D.C. No. 4-17-cv-01742)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, JORDAN, HARDIMAN, GREENAWAY, JR.*,
SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY,
PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, NYGAARD†, *Circuit
Judges*

The petition for rehearing filed by **appellant** in the above-entitled case having
been submitted to the judges who participated in the decision of this Court and to all the

* The Honorable Joseph A. Greenaway, Jr. retired from the Court on June 15, 2023,
during the voting period expired for this petition for rehearing, but before the Clerk's
Office filed the order.

† Judge Nygaard's vote is limited to panel rehearing only.

other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Cindy K. Chung
Circuit Judge

Date: July 13, 2023

kr/cc: Aaron J. Bressi
Kimberly A. Boyer-Cohen, Esq.

**Additional material
from this filing is
available in the
Clerk's Office.**