

A APPX.

A

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

AARON J. BRESSI,

No. 4:17-CV-01405

Plaintiff,

(Chief Judge Brann)

v.

JOHN GEMBIC, *et al.*,

Defendants.

ORDER

AUGUST 23, 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 "as legally frivolous" and closed in July 2018,² and that Plaintiff's appeal to the United States Court of Appeals for the Third Circuit was denied in February 2019,³ 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. 59) to "refile" this case is **DENIED**.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

¹ Doc. 59.

² See Doc. 52.

³ See Docs. 57, 58.

(Page 1) 3rd Day of July 2022
Case No. 4:17-cv-1405

Attn: Office of the Clerk

United States District Court

Aaron J. Bressi - Plaintiff
v.

John Gembic, et al. - Defendants

FILED
WILLIAMSPORT No. 4:17-CV-1405
AUG 08 2022
PER Ja DEPUTY CLERK
(Letter Motion)

I Aaron J. Bressi am writing this Honorable United States District Court this letter-motion, and asking this Honorable Court to grant Plaintiff the request to refile Case No. 4:17-cv-1405, using all original filings/records already on file. Including all (Exhibits) already on file as evidence in support of Case.

Thank You, Aaron Bressi
Case No. 4:17-cv-1405 (8-3-22)

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

AARON J. BRESSI,

No. 4:17-CV-01405

Plaintiff,

(Chief Judge Brann)

v.

JOHN GEMBIC, *et al.*,

Defendants.

ORDER

SEPTEMBER 27, 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 "as legally frivolous" and closed in July 2018,² and that Plaintiff's appeal to the United States Court of Appeals for the Third Circuit was denied in February 2019,³ 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. 61) 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. 61.

² See Doc. 52.

³ See Docs. 57, 58.

(Page 1) 16th Day of Sept. 2022
Case No. 4:17-cv-1405

Attn: Office of the Clerk

United States
District Court

Aaron J. Bressi - Plaintiff
v.

John Gembic, et al. - Defendants
Case No. 4:17-cv-1405

Motion: To Refile;
Case No. 4:17-cv-1405

Brief: In Support also
attached.

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-1405, including all
(Exhibits) already on file as
evidence in Support of Case.

(Page 2) 16th Day of Sept. 2022
Case No. 4:17-cv-1405

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
(9-16-22)

Case No. 4:17-cv-1405

(Page 1) 16th Day of Sept. 2022

Case No. 4:17-CV-1405

Attn: Office of the Clerk

Brief: In Support of
Motion to Refile Case
4:17-CV-1405

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) 16th Day of Sept. 2022
Case No. 4:17-cv-1405

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
(9-16-22)

Case No. 4:17-cv-1405

A P P X.

B

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2866

AARON J. BRESSI,
Appellant

v.

JOHN GEMBIC; MICHAEL TOOMEY; PETER KAY; and VINNY CLAUSI

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(M.D. Pa. Civ. No. 4:17-cv-01405)
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

(Opinion filed: May 24, 2023)

OPINION*

PER CURIAM

Proceeding pro se, Aaron Bressi filed a federal civil rights action against his former employer and three participants in his prior criminal cases. The District Court

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

dismissed Bressi's action under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1). We affirmed. See Bressi v. Gembic, 752 F. App'x 113, 115 (3d Cir. 2019) (per curiam). Years later, Bressi filed motions in the District Court requesting permission to "refile" his case. In denying the latest of the motions, the District Court determined that Bressi had "failed to establish any basis to reopen this case." Bressi now appeals that ruling. We have appellate jurisdiction under 28 U.S.C. § 1291, and, agreeing with the District Court that Bressi's motion to "refile" was baseless, we will affirm the judgment below.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2866

AARON J. BRESSI,
Appellant

v.

JOHN GEMBIC; MICHAEL TOOMEY; PETER KAY; and VINNY CLAUSI

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(M.D. Pa. Civ. No. 4:17-cv-01405)
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 September 27, 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.

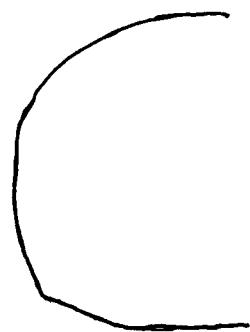
ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: May 24, 2023 Certified as a true copy and issued in lieu
of a formal mandate on July 21, 2023

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

A P P X.



United States District Court
Middle District of Pennsylvania (Williamsport)
CIVIL DOCKET FOR CASE #: 4:17-cv-01405-MWB

Bressi v. Gembic et al
Assigned to: Honorable Matthew W. Brann
Case in other court: Third Circuit, 18-02806
Third Circuit, 22-02866
Cause: 42:1983 Civil Rights Act

Date Filed: 08/09/2017
Date Terminated: 07/26/2018
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Aaron J. Bressi

represented by **Aaron J. Bressi**
MC 9898
SCI - Rockview
SPECIAL MAIL - OPEN ONLY IN THE
PRESENCE OF THE INMATE
PO Box A
Bellefonte, PA 16823
PRO SE

V.

Defendant

John Gembic

represented by **Christine E. Munion**
William Devlin & Associates
10 Sentry Parkway
Suite 301
Blue Bell, PA 19422
215-274-1731
Email: cmunion@travelers.com
ATTORNEY TO BE NOTICED

Defendant

Michael Toomey

represented by **Christine E. Munion**
(See above for address)
ATTORNEY TO BE NOTICED

Sean P. McDonough
Dougherty, Leventhal & Price, L.L.P.
75 Glenmaura National Boulevard
Moosic, PA 18507
570-347-1011
Fax: 570-347-7028
Email: smcdonough@dlplaw.com
ATTORNEY TO BE NOTICED

Defendant

Peter Kay

represented by **Christine E. Munion**
(See above for address)
ATTORNEY TO BE NOTICED

Sean P. McDonough
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Vinny Clausi

represented by **Christine E. Munion**
(See above for address)
ATTORNEY TO BE NOTICED

Sean P. McDonough
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/09/2017	<u>1</u>	COMPLAINT against All Defendants, filed by Aaron J. Bressi.(lg) (Entered: 08/10/2017)
08/09/2017	<u>2</u>	MOTION/application for Leave to Proceed in forma pauperis by Aaron J. Bressi.(lg) (Entered: 08/10/2017)
08/10/2017	<u>3</u>	STANDING PRACTICE ORDER. (Attachments: # <u>1</u> order, # <u>2</u> 285 Service Packet)(lg) (Entered: 08/10/2017)
08/10/2017	<u>4</u>	PRO SE LETTER ISSUED w/ Notice & Consent Form. (lg) (Entered: 08/10/2017)
08/11/2017	<u>5</u>	30 DAY ADMINISTRATIVE ORDER directing the prisoner to pay the filing fee or file a signed Application to Proceed IFP within 30 days or case will be dismissed. Signed by LP on 08/11/2017. (Attachments: # <u>1</u> IFP (Civil Rights), # <u>2</u> Authorization form)(lp) (Entered: 08/11/2017)
08/21/2017	<u>6</u>	MOTION/application for Leave to Proceed in forma pauperis by Aaron J. Bressi.(lg) (Entered: 08/21/2017)
08/21/2017	<u>7</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: 08/21/2017)
08/22/2017	<u>8</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 the 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 8/22/17. (ms)(Copy to Warden from Chambers) (Entered: 08/22/2017)
09/01/2017	<u>9</u>	Prisoner Trust Fund Account Statement by Aaron J. Bressi. (ep) (Entered: 09/01/2017)
09/05/2017	<u>10</u>	AO 398 and AO 399 Service Forms Completed by Plaintiff. (lg) (Entered: 09/05/2017)

09/15/2017	<u>11</u>	Supplement by Aaron J. Bressi. to <u>1</u> Complaint, adding Vinny Clausi as Deft. (ep) (Entered: 09/15/2017)
09/21/2017	<u>12</u>	NOTICE of Appearance by Christine E. Munion on behalf of Peter Kay, Michael Toomey (Munion, Christine) (Entered: 09/21/2017)
09/21/2017	<u>13</u>	WAIVER OF SERVICE Returned by Peter Kay, Michael Toomey. Peter Kay waiver sent on 9/21/2017, answer due 11/20/2017; Michael Toomey waiver sent on 9/21/2017, answer due 11/20/2017. (Munion, Christine) (Entered: 09/21/2017)
09/21/2017	<u>14</u>	DISCLOSURE STATEMENT PURSUANT TO FRCP 7.1 by Peter Kay, Michael Toomey. (Munion, Christine) (Entered: 09/21/2017)
10/03/2017	<u>15</u>	NOTICE of Appearance by Sean P. McDonough on behalf of Peter Kay. (McDonough, Sean) (Entered: 10/03/2017)
10/05/2017	<u>16</u>	NOTICE of Appearance by Christine E. Munion on behalf of Vinny Clausi (Munion, Christine) (Entered: 10/05/2017)
10/06/2017	<u>17</u>	U.S. MARSHAL 285 FORMS to be attached to complaint when served by USM (lg) (Entered: 10/06/2017)
10/13/2017	<u>18</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Vinny Clausi, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Memo Memorandum of Law, # <u>5</u> Notice Under Rule 7.1, # <u>6</u> Proposed Order) (Munion, Christine) (Entered: 10/13/2017)
10/13/2017		DOCKET ANNOTATION: Attorney Munion is instructed to file the brief in support of his motion to dismiss as a separate document. (lg) (Entered: 10/13/2017)
10/16/2017	<u>19</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Vinny Clausi, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Notice Under Local Rule 7.1, # <u>5</u> Proposed Order)(Munion, Christine) (Entered: 10/16/2017)
10/16/2017	<u>20</u>	BRIEF IN SUPPORT re <u>19</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Vinny Clausi, Peter Kay, Michael Toomey.(Munion, Christine) (Entered: 10/16/2017)
10/18/2017	<u>21</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis and Doc. 6 motion to proceed in forma pauperis. Service of complaint will be held in abeyance pending required screening. Signed by Magistrate Judge Joseph F. Saporito, Jr on 10/18/17 (ms) (Entered: 10/18/2017)
10/24/2017	<u>22</u>	NOTICE of Appearance by Sean P. McDonough on behalf of Vinny Clausi, Michael Toomey. (McDonough, Sean) (Entered: 10/24/2017)
10/25/2017	<u>23</u>	MOTION for leave to amend complaint, by Aaron J. Bressi.(lg) Modified on 10/31/2017 (ms). (Entered: 10/25/2017)
10/31/2017	<u>24</u>	BRIEF IN OPPOSITION re <u>19</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Aaron J. Bressi.(ms) (Entered: 10/31/2017)
11/22/2017	<u>25</u>	MOTION for Summary Judgment by Aaron J. Bressi.(lg) (Main Document 25 replaced on 11/28/2017) (ms). (Entered: 11/22/2017)

11/29/2017	<u>26</u>	BRIEF IN OPPOSITION re <u>25</u> MOTION for Summary Judgment filed by Vinny Clausi, John Gembic, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Memo, # <u>2</u> Affidavit of Service, # <u>3</u> Proposed Order)(Munion, Christine) (Entered: 11/29/2017)
11/29/2017	<u>27</u>	BRIEF IN OPPOSITION re <u>23</u> MOTION "to have plaintiff's motion to dismiss complaint withdrawn, add to complaint, and add to my relief" filed by Vinny Clausi, John Gembic, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Memo, # <u>2</u> Affidavit of Service, # <u>3</u> Proposed Order)(Munion, Christine) (Entered: 11/29/2017)
12/21/2017	<u>28</u>	***STRICKEN FROM RECORD PER ORDER OF COURT DATED 12/22/2017*** Document filed by Aaron J. Bressi entitled "Motion: Entry of Default Judgment". (lg) Modified on 12/22/2017 (bg). (Entered: 12/21/2017)
12/21/2017	<u>29</u>	Copy Request Received from Aaron Bressi (note: docket sheet sent w/note re future copies to be paid for in advance) (lg) (Entered: 12/21/2017)
12/22/2017	<u>30</u>	ORDER: IT IS HEREBY ORDERED THAT the plaintiffs motion for "entry of default judgment" (Doc. 28) shall be STRUCK from the record as premature and improperly filed, without prejudice to the plaintiffs right to file an appropriate motion for default judgment at such time when both service of process has been accomplished pursuant to Rule 4 of the Federal Rules of Civil Procedure and the prerequisite entry of default has been entered against one or more defendants under Rule 55(a) of the Federal Rules of Civil Procedure. re <u>28</u> filed by Aaron J. Bressi. Signed by Magistrate Judge Joseph F. Saporito, Jr on 12/22/2017. (bg) (Entered: 12/22/2017)
01/08/2018	<u>31</u>	REQUEST/motion for Marshal to serve by Aaron J. Bressi. (lg) (Entered: 01/08/2018)
01/16/2018	<u>32</u>	REPLY BRIEF re <u>25</u> MOTION for Summary Judgment, <u>23</u> MOTION "to have plaintiff's motion to dismiss complaint withdrawn, add to complaint, and add to my relief" filed by Aaron J. Bressi. (Attachments: # <u>1</u> Exhibit(s))(lg) (Attachment 1 replaced on 6/26/2018) (ms). (Entered: 01/16/2018)
02/09/2018	<u>33</u>	NOTICE of Change of Address by Aaron J. Bressi (address updated to SCI Camp Hill) (lg) (Entered: 02/09/2018)
02/12/2018	<u>34</u>	MOTION for Summary Judgment by Aaron J. Bressi. (lg) (Entered: 02/13/2018)
02/20/2018	<u>35</u>	BRIEF IN OPPOSITION re <u>34</u> MOTION for Summary Judgment filed by Vinny Clausi, John Gembic, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Memo of Law, # <u>2</u> Certificate of Service, # <u>3</u> Proposed Order)(Munion, Christine) (Entered: 02/20/2018)
02/20/2018	<u>36</u>	CERTIFICATE OF SERVICE by Vinny Clausi, John Gembic, Peter Kay, Michael Toomey re <u>35</u> Brief in Opposition to Motion for Summary Judgment (Munion, Christine) (Entered: 02/20/2018)
03/12/2018	<u>37</u>	ORDER re <u>34</u> MOTION for Summary Judgment filed by Aaron J. Bressi. Plaintiff shall file a brief in support of his Doc. 34 motion for summary judgment and a statement of undisputed facts within 14 days of the date of this Order or the motion shall be deemed withdrawn. Signed by Magistrate Judge Joseph F. Saporito, Jr on 3/12/18. (ms) (Entered: 03/12/2018)
03/23/2018	<u>38</u>	MOTION for Extension of Time to File Brief filed by Aaron J. Bressi. (Attachments: # <u>1</u> letter)(lg) (Entered: 03/23/2018)
03/26/2018	<u>39</u>	ORDER granting <u>38</u> Motion for Extension of Time to File Response/Reply re <u>34</u> MOTION for Summary Judgment Brief in Support due by 4/26/2018 Signed by

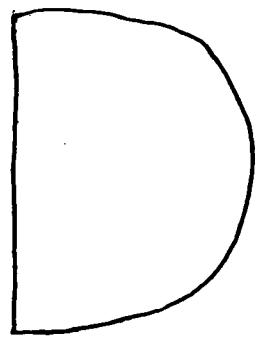
		Magistrate Judge Joseph F. Saporito, Jr on 3/26/18 (ms) (Entered: 03/26/2018)
04/02/2018	<u>40</u>	MOTION for Extension of Time to File Brief to <u>34</u> MOTION for Summary Judgment, <u>37</u> Order, filed by Aaron J. Bressi.(kw) (Entered: 04/02/2018)
04/03/2018	<u>41</u>	ORDER finding as moot <u>40</u> Motion for Extension of Time to File Response/Reply. See Order for complete details. Signed by Magistrate Judge Joseph F. Saporito, Jr on 4/3/18 (ms) (Entered: 04/03/2018)
04/05/2018	<u>42</u>	BRIEF IN SUPPORT re <u>34</u> MOTION for Summary Judgment filed by Aaron J. Bressi.(lg) (Entered: 04/05/2018)
04/11/2018	<u>43</u>	NOTICE of Change of Address by Aaron J. Bressi (address updated to SCI Rockview) (lg) (Entered: 04/11/2018)
04/17/2018	<u>44</u>	BRIEF IN OPPOSITION re <u>34</u> MOTION for Summary Judgment filed by Vinny Clausi, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Memo of Law, # <u>2</u> Proposed Order)(Munion, Christine) Modified on 4/18/2018 (ms). (Entered: 04/17/2018)
05/03/2018	<u>45</u>	REPLY BRIEF re <u>34</u> MOTION for Summary Judgment filed by Aaron J. Bressi.(lg) (Entered: 05/03/2018)
06/13/2018	<u>46</u>	MOTION for Judgment/direct verdict against defendants by Aaron J. Bressi.(lg) (Entered: 06/13/2018)
06/13/2018	<u>47</u>	BRIEF IN OPPOSITION re <u>46</u> MOTION for Judgment filed by Vinny Clausi, John Gembic, Peter Kay, Michael Toomey. (Attachments: # <u>1</u> Memo, # <u>2</u> Certificate of Service, # <u>3</u> Proposed Order)(Munion, Christine) (Entered: 06/13/2018)
06/28/2018	<u>48</u>	Letter to Court from Aaron Bressi re briefs already on file etc (lg) (Entered: 06/28/2018)
06/28/2018	<u>49</u>	ORDER denying <u>23</u> Motion leave to amend complaint Signed by Magistrate Judge Joseph F. Saporito, Jr on 6/28/18 (ms) (Entered: 06/28/2018)
07/02/2018	<u>50</u>	REPORT AND RECOMMENDATIONS re <u>34</u> MOTION for Summary Judgment filed by Aaron J. Bressi, <u>25</u> MOTION for Summary Judgment filed by Aaron J. Bressi, <u>46</u> MOTION for Judgment filed by Aaron J. Bressi, <u>1</u> Complaint filed by Aaron J. Bressi, <u>19</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Michael Toomey, Vinny Clausi, Peter Kay.Based on the foregoing, it is recommended that:1.The plaintiffs complaint (Doc. 1; Doc. 11) be DISMISSED as legally frivolous and for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), § 1915(e)(2)(B)(ii), and § 1915A(B)(1);2.The defendants motion to dismiss for failure to state a claim (Doc. 19) be DENIED as MOOT;3.The plaintiffs motions for summary judgment (Doc. 25; Doc. 34; Doc. 46) be DENIED as MOOT; and4.The Clerk be directed to CLOSE this case. Objections to R&R due by 7/19/2018Signed by Magistrate Judge Joseph F. Saporito, Jr on 7/2/18. (ms) (Entered: 07/02/2018)
07/12/2018	<u>51</u>	OBJECTION (entitled "motion to object") to <u>50</u> Report and Recommendation filed by Aaron Bressi. (lg) (Entered: 07/12/2018)
07/26/2018	<u>52</u>	ORDER ADOPTING REPORT AND RECOMMENDATION - IT IS HEREBY ORDERED that <u>50</u> Report and Recommendation is ADOPTED in its entirety; Plaintiff's complaint <u>1</u> <u>11</u> is DISMISSED WITH PREJUDICE as legally frivolous and for a failure to state a claim, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i), 1915(e)(2)(B)(ii), and 1915A(B)(1); Defendants' <u>19</u> Motion to Dismiss is DENIED AS MOOT; Plaintiff's <u>25</u> <u>34</u> <u>46</u> Motions for Summary Judgment are DENIED AS MOOT; and the

		Clerk of Court is directed to close this case. Signed by Honorable Matthew W. Brann on 7/26/2018. (jr) (Entered: 07/26/2018)
08/13/2018	<u>53</u>	NOTICE OF APPEAL in NON-PRISONER PRO SE Case as to <u>52</u> Order Adopting Report and Recommendation filed 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: 08/13/2018)
10/05/2018	<u>55</u>	ORDER of USCA as to <u>53</u> Notice of Appeal granting the IFP. filed by Aaron J. Bressi (Attachments: # <u>1</u> Letter to the Warden)(jw) (Entered: 10/05/2018)
10/09/2018	<u>56</u>	ADMINISTRATIVE ORDER sent to Prison Superintendent/Warden (ep) (Entered: 10/09/2018)
10/10/2018		Receipt of payment from AARON J BRESSI in the amount of \$34.43 for PLRA CIVIL FILING FEE. Transaction posted on 10/9/2018. Receipt number 333062594 processed by lhannick. (jjs,) (Entered: 10/10/2018)
10/15/2018		Receipt of payment from AARON BRESSI in the amount of \$7.00 for PLRA CIVIL FILING FEE. Transaction posted on 10/12/2018. Receipt number 333062668 processed by lhannick. (jjs,) (Entered: 10/15/2018)
10/22/2018		Receipt of payment from AARON J BRESSI in the amount of \$21.23 for PLRA CIVIL FILING FEE. Transaction posted on 10/19/2018. Receipt number 333062759 processed by lhannick. (jjs,) (Entered: 10/22/2018)
11/09/2018		Receipt of payment from AARON J BRESSI in the amount of \$34.64 for PLRA CIVIL FILING FEE. Transaction posted on 11/8/2018. Receipt number 333063032 processed by lhannick. (jjs,) (Entered: 11/09/2018)
12/13/2018		Receipt of payment from AARON J BRESSI in the amount of \$45.22 for PLRA CIVIL FILING FEE. Transaction posted on 12/12/2018. Receipt number 333063527 processed by gangeli. (jjs,) (Entered: 12/13/2018)
01/15/2019		Receipt of payment from AARON J BRESSI in the amount of \$41.48 for PLRA CIVIL FILING FEE. Transaction posted on 1/14/2019. Receipt number 333063934 processed by gangeli. (jjs,) (Entered: 01/15/2019)
02/08/2019	<u>57</u>	ORDER of USCA as to <u>53</u> Notice of Appeal, filed by Aaron J. Bressi. (pjr) (Entered: 02/13/2019)
02/14/2019		Receipt of payment from AARON J BRESSI in the amount of \$31.52 for PLRA CIVIL FILING FEE. Transaction posted on 2/13/2019. Receipt number 333064417 processed by lhannick. (jjs,) (Entered: 02/14/2019)
03/14/2019		Receipt of payment from AARON BRESSI in the amount of \$37.58 for PLRA CIVIL FILING FEE. Transaction posted on 3/13/2019. Receipt number 333064856 processed by aoswald. (jjs,) (Entered: 03/14/2019)
04/11/2019	<u>58</u>	MANDATE of USCA as to <u>53</u> Notice of Appeal, filed by Aaron J. Bressi. (Attachments: # <u>1</u> USCA Opinion)(Caitlyn) (Entered: 04/11/2019)
04/11/2019		Receipt of payment from AARON BRESSI in the amount of \$30.98 for PLRA CIVIL FILING FEE. Transaction posted on 4/10/2019. Receipt number 333065336 processed by aoswald. (jjs,) (Entered: 04/11/2019)

05/14/2019	Receipt of payment from AARON J BRESSI in the amount of \$39.19 for PLRA CIVIL FILING FEE. Transaction posted on 5/13/2019. Receipt number 333065817 processed by epetrosk. (tp) (Entered: 05/14/2019)
06/14/2019	Receipt of payment from AARON J BRESSI in the amount of \$45.34 for PLRA CIVIL FILING FEE. Transaction posted on 6/13/2019. Receipt number 333066223 processed by epetrosk. (jjs,) (Entered: 06/14/2019)
07/25/2019	Receipt of payment from AARON BRESSI in the amount of \$37.46 for PLRA CIVIL FILING FEE. Transaction posted on 7/24/2019. Receipt number 333066787 processed by gangeli. (jjs,) (Entered: 07/25/2019)
08/09/2019	Receipt of payment from AARON J BRESSI in the amount of \$24.19 for PLRA CIVIL FILING FEE. Transaction posted on 8/8/2019. Receipt number 333067039 processed by epetrosk. (jjs) (Entered: 08/09/2019)
09/17/2019	Receipt of payment from AARON J BRESSI in the amount of \$38.46 for PLRA CIVIL FILING FEE. Transaction posted on 9/13/2019. Receipt number 333067547 processed by epetrosk. (tp) (Entered: 09/17/2019)
10/10/2019	Receipt of payment from AARON J. BRESSI in the amount of \$33.42 for PLRA CIVIL FILING FEE. Transaction posted on 10/9/2019. Receipt number 333068090 processed by gangeli. (jjs) (Entered: 10/10/2019)
11/21/2019	Receipt of payment from AARON J BRESSI in the amount of \$32.89 for PLRA CIVIL FILING FEE. Transaction posted on 11/20/2019. Receipt number 333068690 processed by kfuller. (jjs) (Entered: 11/21/2019)
11/25/2019	Receipt of payment from AARON J BRESSI in the amount of \$24.09 for PLRA CIVIL FILING FEE. Transaction posted on 11/22/2019. Receipt number 333068731 processed by kfuller. (jjs) (Entered: 11/25/2019)
12/17/2019	Receipt of payment from AARON J BRESSI in the amount of \$41.84 for PLRA CIVIL FILING FEE. Transaction posted on 12/13/2019. Receipt number 333069103 processed by aoswald. (jjs) (Entered: 12/17/2019)
01/14/2020	Receipt of payment from AARON J BRESSI in the amount of \$36.20 for PLRA CIVIL FILING FEE. Transaction posted on 1/13/2020. Receipt number 333069563 processed by gangeli. (jjs) (Entered: 01/14/2020)
02/14/2020	Receipt of payment from AARON J BRESSI in the amount of \$32.80 for PLRA CIVIL FILING FEE. Transaction posted on 2/13/2020. Receipt number 333070061 processed by epetrosk. (tp) (Entered: 02/14/2020)
03/11/2020	Receipt of payment from AARON J BRESSI in the amount of \$32.40 for PLRA CIVIL FILING FEE. Transaction posted on 3/10/2020. Receipt number 333070471 processed by gangeli. (tp) (Entered: 03/11/2020)
04/06/2020	Receipt of payment from AARON BRESSI in the amount of \$38.94 for PLRA CIVIL FILING FEE. Transaction posted on 4/3/2020. Receipt number 333070758 processed by gangeli. (jjs) (Entered: 04/06/2020)
04/15/2020	Receipt of payment from AARON J BRESSI in the amount of \$37.70 for PLRA CIVIL FILING FEE. Transaction posted on 4/14/2020. Receipt number 333070898 processed by gangeli. (tp) (Entered: 04/15/2020)

05/14/2020		Receipt of payment from AARON J BRESSI in the amount of \$34.40 for PLRA CIVIL FILING FEE. Transaction posted on 5/13/2020. Receipt number 333071302 processed by gangeli. (jjs) (Entered: 05/14/2020)
06/12/2020		Receipt of payment from AARON J BRESSI in the amount of \$32.40 for PLRA CIVIL FILING FEE. Transaction posted on 6/11/2020. Receipt number 333071662 processed by gangeli. (tp) (Entered: 06/12/2020)
08/12/2020		Receipt of payment from AARON J BRESSI in the amount of \$8.54 for PLRA CIVIL FILING FEE. Transaction posted on 8/11/2020. Receipt number 333072475 processed by gangeli. (jjs) (Entered: 08/12/2020)
06/15/2021		DOCKET ANNOTATION: Counsel are to disregard the Clerk's previous docket annotation to Attorney Godfrey; entered into this case in error. (lg) (Entered: 06/15/2021)
10/01/2021		Receipt of payment from JAMES BRESSI in the amount of \$0.66 for PLRA CIVIL FILING FEE. Transaction posted on 9/30/2021. Receipt number 333078192 processed by epetrosk. (jjs) (Entered: 10/01/2021)
08/08/2022	<u>59</u>	Letter motion from Aaron Bressi asking to refile case using all original filings already on file. (lg) (Entered: 08/08/2022)
08/23/2022	<u>60</u>	ORDER - IT IS HEREBY ORDERED that <u>59</u> Plaintiff's Letter motion to refile is denied. Signed by Chief Judge Matthew W. Brann on 8/23/2022. (lg) (Entered: 08/23/2022)
09/21/2022	<u>61</u>	MOTION to refile case by Aaron J. Bressi.(nr) (Entered: 09/22/2022)
09/21/2022	<u>62</u>	BRIEF IN SUPPORT re <u>61</u> MOTION to refile case filed by Aaron J. Bressi.(nr) (Entered: 09/22/2022)
09/27/2022	<u>63</u>	ORDER - IT IS HEREBY ORDERED that <u>61</u> Plaintiff's second motion to refile is denied. Signed by Chief Judge Matthew W. Brann on 09/27/2022 (ea) (Entered: 09/27/2022)
10/05/2022	<u>64</u>	NOTICE OF APPEAL in Prisoner Case as to <u>63</u> Order on Motion for Miscellaneous Relief by Aaron J. Bressi. Filing Fee and Docket Fee NOT PAID. Filing fee \$ 505 Motion for IFP GRANTED. 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. (ea) (Entered: 10/05/2022)
10/14/2022	<u>66</u>	USCA Appeal Fees received \$ 505 receipt number 333101490 re <u>64</u> Notice of Appeal, filed by Aaron J. Bressi (ep) (Entered: 10/14/2022)
10/17/2022		Receipt of payment from AARON J BRESSI in the amount of \$505.00 for Notice of Appeal/Docketing-PLRA- Fee-PIF. Transaction posted on 10/14/2022. Receipt number 333101490 processed by AO. (jjs) (Entered: 10/17/2022)

A APPX.



UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2866

AARON J. BRESSI,
Appellant

v.

JOHN GEMBIC; MICHAEL TOOMEY;
PETER KAY; VINNY CLAUSI

(D.C. No. 4-17-cv-01405)

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
other available circuit judges of the circuit in regular active service, and no judge who

* 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.

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 Chung
Circuit Judge

Date: July 13, 2023

kr/cc: Aaron J. Bressi
Christine E. Munion, Esq.

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