

**U.S. District Court
Western District of Pennsylvania (Johnstown)
CIVIL DOCKET FOR CASE #: 3:02-cv-00245-KRG-KAP**

MURTHA v. ROSEMEYER, et al
Assigned to: Judge Kim R. Gibson
Referred to: Mag. Judge Keith A. Pesto
Demand: \$0
Case in other court: related to, 3:01-cv-259
Cause: 42:1983pr Prisoner Civil Rights

Date Filed: 09/13/2002
Date Terminated: 03/30/2004
Jury Demand: None
Nature of Suit: 555 Prisoner Civil
Rights (Prison Condition)
Jurisdiction: Federal Question

Plaintiff

KEVIN A. MURTHA

represented by **KEVIN A. MURTHA**
DL-6039
SCI Laurel Highland
5706 Glades Pike
P.O. Box 631
Somerset, PA 15501-0631
PRO SE

V.

Defendant

FREDERIC ROSEMEYER
SUPERINTENDENT

represented by **D. Michael Fisher**
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Defendant

TREVOR WINGARD
UNIT MANAGER

represented by **D. Michael Fisher**
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Defendant

EDWARD HABERMAN
PSYCHOLOGY DEPT. HEAD

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Defendant

KATHY GRIMM
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Defendant

PENNSYLVANIA
DEPARTMENT OF
CORRECTIONS

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Date Filed	#	Docket Text
09/13/2002		Complaint with motion to proceed in forma pauperis received. (plp) (Entered: 09/13/2002)
09/13/2002		CASE REFERRED to Mag. Judge Keith A. Pesto (plp) (Entered: 09/13/2002)
09/13/2002	1	MOTION by KEVIN A. MURTHA to Proceed in Forma Pauperis with Proposed Order. (plp) (Entered: 09/13/2002)

11/18/2002	2	ORDER granting [1-1] motion to Proceed in Forma Pauperis subject to the Prison Litigation Reform Act. The Clerk shall docket the complaint. Plaintiff will be required to pay an initial filing fee of twenty percent of the greater of the average deposits to or average balance in plaintiff's prison account for the six months prior to the filing of the complaint which based on the account information submitted by plaintiff is \$41.14; thereafter plaintiff will be required, each time the balance in his account exceeds \$10.00, to pay monthly installments of twenty percent of any income credited to his prison account until the entire filing fee is paid. The obligation to pay the filing fee will continue even if the complaint is dismissed as legally meritless. The plaintiff is notified that if he wishes to proceed he must sign and return a copy of the attached authorization with a copy of his current inmate account statement to this court within ten days and as more fully stated. (signed by Mag. Judge Keith A. Pesto on 11/18/02) CM all parties of record. (plp) (Entered: 11/18/2002)
11/18/2002	3	COMPLAINT. (plp) (Entered: 11/18/2002)
11/22/2002	4	AUTHORIZATION by KEVIN A. MURTHA permitting withdraw of prison account funds to pay filing fee. (plp) (Entered: 11/22/2002)
11/22/2002		Filing Fee Paid; FILING FEE \$ 150.00 RECEIPT # 03000064 (plp) (Entered: 11/25/2002)
11/26/2002	5	ORDER that when the plaintiff has provided sufficient copies of the complaint, notice of lawsuit, and request for waiver of service, the United States Marshal shall mail a copy of the plaintiff's complaint, notice of lawsuit and request for waiver of service of summons, waiver and this order to defendants. Costs shall be advanced by the United States, and as more fully stated in said order. (signed by Mag. Judge Keith A. Pesto on 11/26/02) CM all parties of record. (plp) (Entered: 11/26/2002)
11/26/2002		Forwarded to U.S. Marshal order dated 11/26/02 and signed by Magistrate Judge Keith A. Pesto along with copies of complaint for service. (plp) (Entered: 11/26/2002)
02/14/2003	6	MOTION by FREDERIC ROSEMEYER, TREVOR WINGARD, EDWARD HABERMAN, KATHY GRIMM and PA DEPT OF CORRECTIONS to Dismiss with Proposed Order. (plp) (Entered: 02/14/2003)
02/14/2003	7	BRIEF by FREDERIC ROSEMEYER, TREVOR WINGARD, EDWARD HABERMAN, KATHY GRIMM and PA DEPT OF CORRECTIONS in support of [6-1] motion to Dismiss by PA DEPT OF CORRECTIONS, KATHY GRIMM, EDWARD HABERMAN, TREVOR WINGARD, FREDERIC ROSEMEYER

		(plp) (Entered: 02/14/2003)
02/18/2003	8	WAIVER OF SERVICE Returned Executed as to FREDERIC ROSEMEYER on 12/16/02; Answer due on 2/14/03 for FREDERIC ROSEMEYER. (plp) (Entered: 02/19/2003)
02/18/2003	9	WAIVER OF SERVICE Returned Executed as to KATHY GRIMM on 12/16/02; Answer due on 2/14/03 for KATHY GRIMM. (plp) (Entered: 02/19/2003)
02/18/2003	11	WAIVER OF SERVICE Returned Executed as to TREVOR WINGARD on 12/16/02; Answer due on 2/14/03 for TREVOR WINGARD. (plp) (Entered: 02/19/2003)
02/18/2003	12	NOTICE OF INABILITY to Effectuate Service re: Jeffrey Beard filed by U.S. Marshal with proposed order. (plp) (Entered: 02/19/2003)
02/19/2003	10	WAIVER OF SERVICE Returned Executed as to EDWARD HABERMAN on 12/16/02; Answer due on 2/14/03 for EDWARD HABERMAN. (plp) (Entered: 02/19/2003)
02/26/2003	13	OBJECTIONS to [6-1] motion to Dismiss by KEVIN A. MURTHA. (plp) (Entered: 02/26/2003)
03/03/2003	14	MOTION by KEVIN A. MURTHA to Extend Time To Object . (plp) (Entered: 03/03/2003)
03/25/2003	15	BRIEF by KEVIN A. MURTHA in support of [3-1] complaint (plp) (Entered: 03/25/2003)
09/23/2003	16	ORDER denying [6-1] motion to Dismiss without prejudice and this matter is stayed pending a decision in Thorpe v. Grillo and as more fully stated in said order. (signed by Mag. Judge Keith A. Pesto on 09/23/03) CM all parties of record. (plp) (Entered: 09/23/2003)
10/27/2003		ORDER, Case assigned to Judge Kim R. Gibson (signed by Judge Joy F. Conti on 10/27/03) filed at 99-110J CM all parties of record. (crw) (Entered: 10/27/2003)
02/19/2004	17	REPORT AND RECOMMENDATION of Mag. Judge Keith A. Pesto signed on 2/19/04 Recommending that [6-1] motion to Dismiss be granted and [3-1] complaint be dismissed; The parties have 10 days from the date of service to file objections to this Report and Recommendation. (plp) (Entered: 02/19/2004)
02/25/2004	18	ORDER returning papers filed by plaintiff for failure to comply with local rules. (signed by Mag. Judge Keith A. Pesto on 2/25/04) CM all parties of record. (plp) (Entered: 02/25/2004)

03/16/2004	19	MOTION by KEVIN A. MURTHA to Extend Time To File Brief (plp) (Entered: 03/16/2004)
03/29/2004		ORDER upon motion denying [19-1] motion to Extend Time To File Brief. (signed by Mag. Judge Keith A. Pesto on 3/29/04) CM all parties of record. (plp) (Entered: 03/29/2004)
03/30/2004	20	ORDER granting [6-1] motion to Dismiss and dismissing [3-1] complaint; Clerk shall mark case closed . Notice mailed. (signed by Judge Kim R. Gibson on 3/30/04) CM all parties of record. (plp) (Entered: 03/30/2004)
03/30/2004		Case closed (plp) (Entered: 03/30/2004)