

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHRISTOPHER M. RODLAND,
Plaintiff,

v.

COUNTY OF CAMBRIA, *et al.*,
Defendants.

: No. 2014-3487
:
:
: ARGUMENT COURT
:
: FEBRUARY 20, 2015
:
:
: Defendant's Preliminary Objections
: to Plaintiff's Complaint

FILED FOR RECORD
15 MAR -3 PM 2:
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CAMBRIA COUNTY

ATTORNEYS OF RECORD:

For the Plaintiff:

PRO SE

For the Defendant:

MARY LOU MAIERHOFER, ESQUIRE

BEFORE THE HONORABLE LINDA ROVDER FLEMING,
JUDGE OF THE COURT OF COMMON PLEAS OF THE
FORTY-SEVENTH JUDICIAL DISTRICT OF PENNSYLVANIA

ORDER

AND NOW, this 3rd day of March, 2015, upon a thorough review of Defendants' Preliminary Objections to Plaintiff's Complaint and the parties' briefs, it is hereby **ORDERED** and **DECREED** as follows:

1. Plaintiff's claims are barred for failure to exhaust administrative remedies as required by the federal and state Prisoner Litigation Reform Acts, 42 U.S.C. § 1997e and 42 Pa. C.S.A. § 6603(a)-(b), respectively; thus, Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
2. All of Plaintiff's causes of action are barred under the Doctrine of Lis Pendens and/or Res Judicata and/or Claim Preclusion; thus, Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
3. All of Plaintiff's causes of action for breach of contract and/or contract-based claims are **DISMISSED WITH PREJUDICE**.

4. All of Plaintiff's claims based on Title 37 of the Pennsylvania Code, specifically regarding any prison conditions, are only applicable to the Pennsylvania Department of Corrections; thus, Plaintiff's claims under such are **DISMISSED WITH PREJUDICE**.
5. Plaintiff's causes of action for misfeasance, malfeasance, or nonfeasance are **DISMISSED WITH PREJUDICE**.
6. Plaintiff's claims for bailment and conversion are **DISMISSED WITH PREJUDICE**.
7. Plaintiff's Constitutional claims under 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE**.
8. Plaintiff's claims against the Honorable Timothy P. Creany; Kelly Callihan, Esquire; Robert Kolar; Edward Cernic, Jr.; Douglas R. Lengenfelder; Thomas C. Chernisky; Mark J. Wissinger; Tiffany Fogle; Captain Fedorka; Captain Sobacky; Lieutenant Kaschalk; Lieutenant Henderson; Lee Yingling; and Jill McAllister are **DISMISSED WITH PREJUDICE** as Plaintiff failed to meet the requirements of 42 Pa. C.S.A. § 5522(a)(1)(i).
9. Plaintiff's claims for any negligent-based causes of action, i.e., negligent infliction of emotional distress; tortious interference with access to courts; negligent hiring practices; tortious interference with physical exercise; tortious interference to courts; malfeasance; misfeasance; nonfeasance; failure to protect; failure to supervise; failure to train; bailment; and/or conversion are **DISMISSED WITH PREJUDICE** pursuant to the Governmental Immunities afforded to all Defendants.
10. The Honorable Timothy P. Creany is **DISMISSED WITH PREJUDICE** as a defendant pursuant to the Judicial Immunities granted to a Judge.
11. Kelly Callihan, Esquire is **DISMISSED WITH PREJUDICE** as a defendant pursuant to the Immunities granted to a District Attorney.
12. All individual members of the Board of Inspectors of the Cambria County Prison, namely, the Honorable Timothy P. Creany; Kelly Callihan, Esquire;

- Robert Kolar; Edward Cernic, Jr.; Douglas R. Lengenfelder; Thomas C. Chernisky; and Mark J. Wissinger are **DISMISSED WITH PREJUDICE** as defendants because the Board of Inspectors is a named party to this action.
13. All individual employees of the prison, namely, John J. Prebish, Jr.; Christian Smith; William Patterson; Craig Descavish; Tammy Sinclair; Daniel Hornbake; Tiffany Fogle; Captain Fedorka; Captain Sobecky; Lieutenant Kaschalk; Lieutenant Henderson; Lee Yingling; and Jill McAllister are **DISMISSED WITH PREJUDICE** as defendants because the County of Cambria is a named party to this action.
 14. All claims for punitive damages are **STRICKEN WITH PREJUDICE** as improper under the Political Subdivision Tort Claims Act, 42 Pa. C.S.A. §§ 8541-8542.
 15. All claims for attorney fees are **STRICKEN WITH PREJUDICE**.
 16. All claims for negligent infliction of emotional distress are **STRICKEN WITH PREJUDICE**.
 17. All claims for intentional infliction of emotional distress are **STRICKEN WITH PREJUDICE**.
 18. Plaintiff's causes of action are barred by the applicable statute of limitations; thus, they are **DISMISSED WITH PREJUDICE**.
 19. Plaintiff's Complaint is not the first meritless lawsuit related to "prison conditions" that Plaintiff has filed; thus, it is **DISMISSED WITH PREJUDICE** as frivolous pursuant to the Pennsylvania Prisoner Litigation Reform Act, 42 Pa. C.S. § 6602(e).
 20. As Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** in its entirety, Plaintiff's "Application to Strike Defense Pleading due to Untimeliness" [sic] filed for record on February 26, 2015, is **DISMISSED AS MOOT**.

BY THE COURT:



Linda Rovder Fleming, Judge