

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

TERMAINE BENNETT,	)	
	)	Civil Action
Plaintiff	)	No. 07-CV-2794
	)	
vs.	)	
	)	
CITY OF PHILADELPHIA;	)	
PHILADELPHIA PRISON SYSTEM;	)	
LEON A. KING II, ESQUIRE,	)	
Individually and as	)	
Commissioner of the	)	
Philadelphia Prison System;	)	
JOYCE ADAMS, Individually	)	
and as Warden of	)	
House of Corrections;	)	
JOHN F. STREET, ESQUIRE,	)	
Individually and as	)	
Mayor of Philadelphia; and	)	
JOHN DOE, Private Contractor	)	
Hired by the City of	)	
Philadelphia for Celling	)	
Stabilization,	)	
	)	
Defendants	)	

O R D E R

NOW, this 9<sup>th</sup> day of September, 2008, upon consideration of Defendants City of Philadelphia, Mayor Street, Commissioner King and Warden Adams Motion to Dismiss Plaintiff's Complaint, which motion to dismiss was filed January 16, 2008; upon consideration of Defendants City of Philadelphia, Mayor Street, Commissioner King and Warden Adams Memorandum of Law in Support of their Motion to Dismiss Plaintiff's Complaint, which memorandum of law was filed January 6, 2008<sup>1</sup>; and for the reasons articulated in the accompanying Opinion,

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<sup>1</sup> Plaintiff did not file a response brief.

IT IS ORDERED that Defendants City of Philadelphia, Mayor Street, Commissioner King and Warden Adams Motion to Dismiss Plaintiff's Complaint is granted.

IT IS FURTHER ORDERED that all federal claims asserted in plaintiff's Complaint against defendants City of Philadelphia, Philadelphia Prison System, Leon A. King, II, Joyce Adams and John F. Street are dismissed.

IT IS FURTHER ORDERED that all state tort claims asserted in plaintiff's Complaint against defendants City of Philadelphia, Philadelphia Prison System, Leon A. King, II, Joyce Adams and John F. Street are dismissed without prejudice to re-assert such claims in a proper state forum.

IT IS FURTHER ORDERED that defendants City of Philadelphia, Philadelphia Prison System, Leon A. King, II, Joyce Adams and John F. Street are each dismissed as parties to this action.

IT IS FURTHER ORDERED that the Clerk of Court shall mark the docket accordingly.

BY THE COURT:

/s/ James Knoll Gardner  
James Knoll Gardner  
United States District Judge

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Hired by the City of	)	
Philadelphia for Celling	)	
Stabilization,	)	
	)	
Defendants	)	

\* \* \*

APPEARANCES:

TERMAINE BENNETT  
Pro se

STEPHEN C. MILLER, ESQUIRE  
On behalf of Defendants City of Philadelphia,  
Leon A. King, II, Joyce Adams and John F. Street

\* \* \*

M E M O R A N D U M

JAMES KNOLL GARDNER,  
United States District Judge

This matter is before the court on Defendants City of Philadelphia, Mayor Street, Commissioner King and Warden Adams Motion to Dismiss Plaintiff's Complaint, which motion to dismiss was filed January 16, 2008.<sup>2</sup> For the following reasons, I grant defendants' motion pursuant to Federal Rule of Civil Procedure 12(b)(6).<sup>3</sup>

Specifically, I grant defendants' motion and dismiss all of plaintiff's federal claims against defendant City of Philadelphia and defendants King, Adams and Street. In addition, because the within action is an in forma pauperis proceeding,<sup>4</sup> and the arguments in favor of dismissal apply with equal force to defendant Philadelphia Prison System, this action is also dismissed against the Philadelphia Prison System.

Having dismissed all federal claims in this action against the aforementioned defendants, I decline to exercise supplemental jurisdiction over plaintiff's state law claims against these defendants. Therefore, plaintiff's state law

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<sup>2</sup> Plaintiff did not oppose defendants' motion to dismiss. However, despite plaintiff's failure to contest defendants' motion to dismiss, I consider the merits of his claims.

<sup>3</sup> Plaintiff's Complaint asserts claims against the City of Philadelphia, the Philadelphia Prison System, Leon A. King, II, Joyce Adams, John F. Street and an unnamed John Doe defendant. Defendants' motion seeks dismissal of all claims asserted against defendants City of Philadelphia, Leon A. King, II and John F. Street. The motion does not address the liability of defendant Philadelphia Prison System. Nevertheless, based upon my resolution of the within motion, pursuant to 28 U.S.C. § 1915(e), I sua sponte conclude that plaintiff's Complaint fails to state a claim for which relief can be granted against defendant Philadelphia Prison System.

<sup>4</sup> By Order dated November 6, 2007, I granted plaintiff's motion to proceed in forma pauperis in the within prisoner civil rights action.

claims are dismissed without prejudice to re-assert such claims in a proper state forum.

#### JURISDICTION

Jurisdiction in this case is based upon federal question jurisdiction pursuant to 28 U.S.C. § 1331. The court has supplemental jurisdiction over plaintiff's pendent state law claims. 28 U.S.C. § 1367(a).

#### VENUE

Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to plaintiff's claims allegedly occurred in Philadelphia, Pennsylvania, which is located within this judicial district.

#### STANDARD OF REVIEW

A claim may be dismissed under Federal Rule of Civil Procedure 12(b)(6) for "failure to state a claim upon which relief can be granted". A 12(b)(6) motion requires the court to examine the sufficiency of the complaint. Conley v. Gibson, 355 U.S. 41, 45, 78 S.Ct. 99, 102, 2 L.Ed.2d 80, 84 (1957) (abrogated in other respects by Bell Atlantic Corporation v. Twombly, \_\_\_ U.S. \_\_\_, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)).

Ordinarily, a court's review of a motion to dismiss is limited to the contents of the complaint, including any attached exhibits. See Kulwicki v. Dawson, 969 F.2d 1454, 1462

(3d Cir. 1992). However, evidence beyond a complaint which the court may consider in deciding a 12(b)(6) motion to dismiss includes public records (including court files, orders, records and letters of official actions or decisions of government agencies and administrative bodies), documents essential to plaintiff's claim which are attached to defendant's motion, and items appearing in the record of the case. Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1380 n.1 and n.2 (3d Cir. 1995).

Except as provided in Federal Rule of Civil Procedure 9, a complaint is sufficient if it complies with Rule 8(a)(2). That rule requires only "a short and plain statement of the claim showing that the pleader is entitled to relief" in order to give the defendant fair notice of what the claim is and the grounds upon which it rests. Twombly, \_\_\_ U.S. at \_\_\_, 127 S.Ct. at 1964, 167 L.Ed.2d at 940.

Additionally, in determining the sufficiency of a complaint, the court must accept as true all well-pled factual allegations and draw all reasonable inferences therefrom in the light most favorable to the non-moving party. Worldcom, Inc. v. Graphnet, Inc., 343 F.3d 651, 653 (3d Cir. 2003). Nevertheless, a court need not credit "bald assertions" or "legal conclusions" when deciding a motion to dismiss. In re Burlington Coat Factory Securities Litigation, 114 F.3d 1410, 1429-1430 (3d Cir. 1997).

In considering whether the complaint survives a motion to dismiss, both the district court and the court of appeals review whether it "contain[s] either direct or inferential allegations respecting all the material elements necessary to sustain recovery under *some* viable legal theory." Twombly, \_\_\_ U.S. at \_\_\_, 127 S.Ct. at 1969, 167 L.Ed.2d at 945 (quoting Car Carriers, Inc. v. Ford Motor Company, 745 F.2d 1101, 1106 (7th Cir. 1984)(emphasis in original); Maspel v. State Farm Mutual Auto Insurance Company, 2007 WL 2030272, at \*1 (3d Cir. July 16, 2007).

Furthermore, the United States Supreme Court has held that "pro se civil rights complaints are held to a less stringent standard than formal pleadings drafted by lawyers in deciding whether a claim for relief is established." Haines v. Kerner, 404 U.S. 519, 520-521, 92 S.Ct. 594, 595-596, 30 L.Ed.2d 652, 653-654 (1972).

#### PLAINTIFF'S COMPLAINT

On November 8, 2007 plaintiff Termaine Bennett filed his pro se Complaint styled "Form To be Used by a Prisoner Filing a 42 U.S.C. § 1983 Civil Rights Complaint in the United States District Court for the Eastern District of Pennsylvania" (hereinafter "Complaint").

Plaintiff's Complaint alleges that he was subjected to cruel and unusual punishment. Based on this averment, plaintiff

appears to assert claims for violations of his rights under the Eighth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983. Additionally, although plaintiff does not explicitly assert tort claims under state law, the facts alleged also present a pendent state law claim of negligence.

Plaintiff's Complaint seeks relief against defendants City of Philadelphia and the Philadelphia Prison System as well as individual defendants Leon A. King, II, Joyce Adams and John F. Street.<sup>5</sup> Defendant King is identified as the Commissioner of the Philadelphia Prison System. Defendant Adams is identified as the Warden of the House of Corrections. Defendant Street is identified as the Mayor of the City of Philadelphia.

Plaintiff contends that the poor conditions at the prison constituted cruel and unusual punishment. Plaintiff avers that all defendants were responsible for violating his rights because of their involvement with the construction and maintenance of the prison facility.

Plaintiff seeks relief in the form of monetary compensation for hospital bills, pain and suffering, legal bills and mental anguish. Plaintiff also seeks an award of punitive damages.

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<sup>5</sup> Plaintiff's Complaint also named defendants Leslie Gomez, Esquire and Mark Mungello, Esquire as defendants. By my Order dated November 6, 2007, the claims against defendants Gomez and Mungello were dismissed as frivolous.

## FACTS

Based upon the foregoing standard of review, and accepting as true all well-pled factual averments in plaintiff's Complaint, and drawing all reasonable inferences from the Complaint in the light most favorable to plaintiff as the non-moving party, as I am required to do, the pertinent facts are as follows.<sup>6</sup>

Plaintiff was incarcerated at the House of Corrections in Philadelphia, Pennsylvania. While he was showering in the Delta-One block at the House of Corrections the ceiling caved in. During the collapse, plaintiff and several other inmates attempted to retreat from the area. However, plaintiff was hit and knocked unconscious from the falling debris.

Correctional staff and members of the Philadelphia Fire Department's Fire and Rescue Unit helped plaintiff out from under the debris. The Rescue Unit subsequently transported plaintiff to Thomas Jefferson hospital for treatment of his injuries.

As a result of the ceiling collapse, plaintiff suffered head, neck and back injuries. Plaintiff was diagnosed with Post-Traumatic Stress Disorder and was prescribed medication by a psychiatrist. Additionally, plaintiff now suffers from nightmares, anxiety, and weight loss and needs assistance when

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<sup>6</sup> The facts presented here are based upon plaintiff's Complaint and the docket entries and Orders and Opinions of record in this case.

taking showers as a result of the ceiling collapse. Plaintiff received a \$954.00 medical bill for his treatment.

#### DISCUSSION

Liberally construed, plaintiff's Complaint alleges claims for violations of the Eighth Amendment, actionable through 42 U.S.C. § 1983, and pendent state negligence claims under Pennsylvania law. Plaintiff seeks relief against defendants City of Philadelphia and the Philadelphia Prison System ("municipal defendants") as well as individual defendants King, Adams and Street ("individual defendants") in both their official and individual capacities. The applicable federal law, the liability of the municipal defendants and the liability of the individual defendants in each capacity are addressed below.

#### Philadelphia Prison System

As an initial matter, the court must determine the municipal entities involved in this prisoner civil rights action. The status of defendant Philadelphia Prison System is clear. The Philadelphia Prison System is not a separate legal entity from the City of Philadelphia (that is, the two entities are the same party). See Best-Bey v. Pennsylvania, 2008 WL 161214, at \*1 n.1 (E.D.Pa. January 16, 2008)(Buckwalter, S.J.). Therefore, because the Philadelphia Prison System and the City of Philadelphia are legally indistinct, the discussion below regarding municipal

liability against defendant City of Philadelphia applies equally to the claims against defendant Philadelphia Prison System.<sup>7</sup>

### Section 1983

Section 1983 is an enabling statute which provides a remedy for the violation of constitutional or statutory rights. The statute itself does not create any substantive rights, but rather provides a mechanism for the enforcement of certain rights guaranteed by the United States Constitution. Gruenke v. Seip, 225 F.3d 290, 298 (3d Cir. 2000). Section 1983 states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1983.

Thus, to state a claim under § 1983, a plaintiff must demonstrate the defendant, acting under color of state law, deprived plaintiff of a right secured by the Constitution or the laws of the United States. Parratt v. Taylor, 451 U.S. 527, 535, 101 S.Ct. 1908, 1913, 68 L.Ed.2d 420, 428 (1986); Chainey v.

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<sup>7</sup> Because plaintiff is proceeding in forma pauperis, I may scrutinize this action for dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). I may dismiss an in forma pauperis proceeding if the action: (i) is frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or (iii) seeks monetary damages from a defendant with immunity. 28 U.S.C. § 1915(e)(2)(B).

Street, 523 F.3d 200, 219 (3d Cir. 2008)(quoting Kaucher v. County of Bucks, 455 F.3d 418, 423 (3d Cir. 2006)).

#### Municipality Liability

Municipalities are considered "persons" under § 1983 and may be held liable for constitutional torts if two prerequisites are met: (1) the plaintiff's harm was caused by a constitutional deprivation; and (2) the municipal entity is responsible for that violation. Collins v. City of Harker Heights, 503 U.S. 115, 120, 112 S.Ct. 1061, 1066, 117 L.Ed.2d 261, 270 (1992).

A municipality cannot be held vicariously liable for the constitutional violations of its agents under a theory of respondeat superior. Langford v. Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000). Instead, municipal entities are only liable under § 1983 "when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible for under § 1983." Monell v. Department of Social Services of the City of New York, 436 U.S. 658, 694, 98 S.Ct 2018, 2037-2038, 56 L.Ed.2d 611, 638 (1978).

### Official and Individual Capacities

The United States Supreme Court differentiates between § 1983 claims against government employees acting in their individual and official capacities. Official capacity suits "generally represent only another way of pleading an action against an entity of which an officer is an agent." Kentucky v. Graham, 473 U.S. 159, 165-166, 105 S.Ct. 3099, 3104-3105, 87 L.Ed.2d 114, 121-122 (1985)(quoting Monell, 436 U.S. at 690 n.55, 98 S.Ct at 2035, 56 L.Ed.2d at 635).

State officers acting in their official capacity are not liable under § 1983 because the officers assume the identity of the government that employs them. Hafer v. Melo, 502 U.S. 21, 27, 112 S.Ct. 358, 362-363, 116 L.Ed.2d 301, 310-311 (1991) (citing Will v. Michigan Department of State Police, 491 U.S. 58, 71, 109 S.Ct. 2304, 2312, 105 L.Ed.2d 45, 58 (1989)).

In contrast, individual capacity suits attempt to impose liability on government officials for their actions under color of law. Kentucky v. Graham, 473 U.S. at 165-166, 105 S.Ct. at 3104-3105, 87 L.Ed.2d at 121-122 (1985). Individual defendants who are policymakers may be liable under § 1983 in their individual capacity if it is shown that such defendants, "with deliberate indifference to the consequences, established and maintained a policy, practice or custom which directly caused [the] constitutional harm." A.M. v. Luzerne County Juvenile

Detention Center, 372 F.3d 572, 586 (3d Cir. 2004)(quoting Stoneking v. Bradford Area School District, 882 F.2d 720, 725 (3d Cir. 1989)).

In addition, an official with supervisory responsibilities may also be held liable if the official participated in violating the plaintiff's rights, or directed others to violate them, or had knowledge of, and acquiesced in, his subordinates' violations. Baker v. Monroe Township, 50 F.3d 1186, 1190-1191 (3d Cir. 1995). However, there is no liability in individual capacity § 1983 actions based on a theory of respondeat superior. Monell, 436 U.S. at 693, 98 S.Ct. at 2037, 56 L.Ed.2d at 637.

#### Eighth Amendment

To show that prison officials are liable under § 1983 for violating the Eighth Amendment based on a failure to prevent harm, an inmate must demonstrate (1) that the prison conditions created a substantial risk of serious harm and (2) that prison officials acted with deliberate indifference to inmate health or safety. Farmer v. Brennan, 511 U.S. 825, 834, 114 S.Ct. 1970, 1970, 128 L.Ed.2d 811, 823-824 (1994). To constitute "deliberate indifference", a prison official must be aware of, and disregard, a substantial risk to the inmates' safety. 511 U.S. at 837, 114 S.Ct. at 1979, 128 L.Ed.2d at 825.

Furthermore, a plaintiff can prove by circumstantial evidence that a defendant had actual knowledge of a substantial risk. Such evidence may include a showing that the risk was obvious or well-documented, and a showing of circumstances which suggest that the defendant was exposed to information concerning the risk. Farmer, 511 U.S. at 842-843, 114 S.Ct. at 1981-1982, 128 L.Ed.2d at 828-829.

In addition to these requirements for individual liability, in order to demonstrate municipal liability for violations of the Eighth Amendment, a plaintiff must allege that a policy or custom of the municipal defendant was the moving force behind the alleged violation of his Eighth Amendment rights and that the municipality was deliberately indifferent to the risk that such a violation might occur. Grayson v. Mayview State Hospital, 293 F.3d 103, 107 (3d Cir. 2002).

An accidental injury does not amount to an Eighth Amendment violation when prison officials act negligently or are unaware of a substantial risk of serious harm, which results in injury. Additionally, claims of negligence themselves do not constitute deliberate indifference. Farmer, 511 U.S. at 835, 114 S.Ct. at 1978, 128 L.Ed.2d at 824.

In Peeks v. Beard, for example, the plaintiff suffered injury when a light fixture fell on his head. Plaintiff alleged that the prison officials knew or should have known that the area

was unsafe. The district court dismissed the complaint because the injury was accidental, and plaintiff's allegations did not support an inference that the officials acted with deliberate indifference. Peeks v. Beard, 2005 WL 3088369, at \*1-2 (M.D.Pa. November 17, 2005).

Similarly, in Bacon v. Carroll, the United States Court of Appeals for the Third Circuit held that plaintiff's injury from slipping on a wet floor was accidental, and an inference could not be drawn from plaintiff's allegations that prison officials were deliberately indifferent. 232 Fed.Appx. 158, 160 (3d Cir. 2007).

Additionally, in Thomas v. Zinkel, 155 F.Supp.2d 408, 410 (E.D.Pa. 2001)(Joyner, J.), while working to fix a leak in the roof, the plaintiff slipped and fell from a ladder. The court dismissed the claim, holding that plaintiff did not state a cognizable § 1983 claim because he failed to allege that the prison officials subjectively knew of a substantial risk of harm. Id. at 414.

#### Analysis

In the within matter, plaintiff, a prisoner, asserts that he was injured from falling debris when the ceiling collapsed in the prison shower. Plaintiff contends that the unsafe condition of the ceiling constituted cruel and unusual punishment. He argues that the individual and municipal

defendants were directly responsible for his injury based on their involvement with the construction and maintenance of the prison facility.

As a threshold matter, plaintiff's averments are insufficient to state a cognizable claim under § 1983 against any of the named defendants. Although plaintiff's Complaint is to be liberally construed, it must identify the contours of the right which has been violated and demonstrate an alleged deprivation of that right. See Parratt v. Taylor, 451 U.S. at 535, 101 S.Ct. at 1913, 68 L.Ed.2d at 428; Chainey, 523 F.3d at 219.

However, plaintiff has not established how either the municipal or individual defendants' actions of hiring contractors, creating a budget, or maintaining the prison facilities deprived him of his Eighth Amendment rights. However, the liability of each of the parties is properly considered individually.

Plaintiff's allegations are insufficient to support an Eighth Amendment claim against the municipal defendants (the City of Philadelphia and the Philadelphia Prison System). Plaintiff has not pointed to any official statement, written policy, official acts or adopted customs by the municipal defendants indicating that they had adopted a policy or practice of maintaining plaintiff's detention facility in a hazardous or potentially hazardous condition.

Even liberally construed, plaintiff's conclusory assertions that the municipal defendants "cut corners" in prison facility maintenance and that they hired a contractor responsible for ceiling stability do not show an official policy by the municipal defendants of maintaining unsafe prison conditions.

Without such averments, plaintiff has not shown that the municipality is responsible for plaintiff's injuries. Therefore, plaintiff's federal claims against defendants City of Philadelphia and Philadelphia Prison System are insufficient and must be dismissed.

Plaintiff has also asserted claims against the individual defendants King, Adams and Street in their official and individual capacities. The claims against the three individual defendants in their official capacities do not exist independently from the claims against defendant City of Philadelphia. See Will, 491 U.S. at 71, 109 S.Ct. at 2312, 105 L.Ed.2d at 58; Monell, 436 U.S. at 690, 98 S.Ct. at 2035, 56 L.Ed.2d at 635. Thus, plaintiff's federal claims against these defendants in their official capacities must be dismissed as duplicative. See Gregory v. Chehi, 843 F.2d 111, 120 (3d Cir. 1988).

Moreover, plaintiff's claims fail against the individual defendants in their individual capacities. Even if the prison conditions were improperly maintained and created a

substantial risk of serious harm, plaintiff has not alleged that the individual defendants were aware of the unsafe conditions and deliberately disregarded any potential problems. See Thomas, 155 F.Supp.2d at 410; Peeks, 2005 WL 3088369, at \*1; Bacon, 232 Fed.Appx. at 160.

Moreover, with regard to supervisory liability, plaintiff has not alleged that these defendants specifically participated in violating plaintiff's rights or directed others to violate his rights. See A.M. v. Luzerne County Juvenile Detention Center, 372 F.3d at 585; Baker, 50 F.3d at 1190-1191.

Furthermore, plaintiff has not presented any circumstantial evidence to support an inference that the individual defendants or their subordinates had actual knowledge of a substantial risk of harm from a ceiling collapse. See Farmer, 511 U.S. at 842, 114 S.Ct. at 1981, 128 L.Ed.2d at 828.

Without any of the above allegations, plaintiff's Complaint, at best, asserts a claim for negligence, which is insufficient to establish a cognizable § 1983 action. See Bacon, 232 Fed.Appx. at 160; see also Thomas, 155 F.Supp.2d at 414. Therefore, plaintiff's federal claims against defendants King, Adams and Street are insufficient and must be dismissed.

Accordingly, defendants' motion to dismiss is granted because plaintiff's Complaint does not state a cognizable § 1983 claim against defendants City of Philadelphia, Philadelphia

Prison System, Leon A. King, II, Joyce Adams and John F. Street for violations of his Eighth Amendment rights.

Negligence Claim

While plaintiff does not specifically assert a state law tort claim, the facts presented in plaintiff's Complaint may give rise to a claim for negligence under Pennsylvania law. However, in this case original jurisdiction was based on federal-question jurisdiction pursuant to 28 U.S.C. § 1331. Having determined that all federal-question claims must be dismissed, the remaining tort claims sound in state law.

When all federal claims have been dismissed in an action based on federal-question jurisdiction pursuant to 28 U.S.C. § 1331, I may decline to exercise supplemental jurisdiction over the remaining claims under 28 U.S.C. § 1367(c)(3). Growth Horizons, Inc. v. Delaware County, Pennsylvania, 983 F.2d 1277, 1284-1285 (3d Cir. 1993). Therefore, I decline to exercise supplemental jurisdiction over the remaining claims against defendants City of Philadelphia, Philadelphia Prison System, Leon A. King, II, Joyce Adams and John F. Street. As a result, I dismiss plaintiff's Pennsylvania tort claims without prejudice to re-assert such claims in a proper state forum.

CONCLUSION

For all the foregoing reasons, I grant Defendants City of Philadelphia, Mayor Street, Commissioner King and Warden Adams Motion to Dismiss Plaintiff's Complaint, and dismiss plaintiff's Complaint against defendants City of Philadelphia, Philadelphia Prison System, Leon A. King, II, Joyce Adams and John F. Street.