

2012 WL 6691078

Only the Westlaw citation is currently available.

United States District Court,
S.D. New York.

Harry M. **STOKES**, Plaintiff,

v.

CITY OF MOUNT VERNON, NEW YORK; J. Yuhanna Edwards, individually and in his official capacity; Nichelle A. Johnson, individually and in her official capacity; Maureen Walker, individually and in her official capacity; Karen Watts, individually and in her official capacity; Diane Munro–Morris, individually and in her official capacity; and Roberta Apuzzo, individually and in her official capacity, Defendants.

No. 11 CV 7675(VB).

|
Dec. 17, 2012.

ORDER

BRICCETTI, District Judge.

*1 Upon review and consideration of the motions for reconsideration filed by defendants Edwards, Johnson, Watts, Apuzzo, Munro–Morris, Walker, and the **City of Mount Vernon**, and plaintiff's opposition, for the reasons stated on the record at the hearing on December 17, 2012, the Court

grants the motions in part and denies the motions in part. Specifically, the Court grants the motions with regard to absolute legislative immunity, finding such immunity bars all federal claims against the individual defendants sued in their individual capacities. In all other respects, the Court denies the motions for reconsideration and adheres to the analysis in its Memorandum Decision dated August 14, 2012.

As further discussed at the December 17 hearing, defendants may submit supplemental memoranda addressing the following unresolved issues related to the remaining state law claims, counts five and six of the complaint:

- 1) Whether the Court should decline to exercise supplemental jurisdiction;
- 2) Whether plaintiff has stated a claim;
- 3) Whether absolute legislative immunity bars these state law claims against the individual defendants in their individual capacities;
- 4) Whether *Garcetti v. Ceballos*, 547 U.S. 410 (2006), or a state-law analog, precludes a suit under [Article I § 8 of the New York State Constitution](#) against the **City of Mount Vernon**, Walker, or Edwards.

Defendants may submit any memoranda by January 25, 2013. Plaintiff may submit any memorandum in opposition by February 15, 2013. Defendants may file a reply by March 1, 2013.

The Clerk is instructed to terminate the motions (Docs.# 47, 49, 52).

SO ORDERED.

All Citations

Not Reported in F.Supp.2d, 2012 WL 6691078