

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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**PHILADELPHIA BAIL FUND,**

*Plaintiffs,*

v.

Civil Action No. 2:19-3110

**ARRAIGNMENT COURT MAGISTRATE  
JUDGES FRANCIS BERNARD, SHEILA  
BEDFORD, KEVIN DEVLIN, JAMES  
O'BRIEN, JANE RICE, and ROBERT  
STACK, in their official capacities;  
PRESIDENT JUDGE PATRICK DUGAN,  
in his official capacity; SHERIFF  
JEWELL WILLIAMS, in his official  
capacity,**

*Defendants.*

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**DEFENDANT WILLIAMS'S BRIEF IN REPLY TO PLAINTIFF'S RESPONSE IN  
OPPOSITION TO DEFENDANT'S CROSS MOTION FOR SUMMARY JUDGMENT**

Defendant, former Sheriff Jewell Williams, in his official capacity (“Defendant Williams”), by and through his undersigned counsel, hereby files this Memorandum of Law in Reply to Plaintiff’s Response in Opposition to Defendant’s Motion for Summary Judgment (ECF No. 45).<sup>1</sup>

Plaintiff’s reliance on *McNeil v. Community Probation Services*, No. 2019 WL 7043172 (6<sup>th</sup> Cir. Dec. 23, 2019), is misplaced. First, Defendant Williams is not a state actor and thus not subject to an injunction under *Ex Parte Young* as *McNeil* concludes. At best, Defendant Williams was a City official entity enforcing a state policy. *See* Pls.’ Opp’n to Def.’s Mot. Dismiss 23, ECF No. 18 (“The claim against the Sheriff in this suit focuses on his role in ‘enforcing [Commonwealth] policy’”). Under *Carter v. City of Philadelphia*, 181 F.3d 339 (3d

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<sup>1</sup> Upon the expiration of Sheriff Williams’ term of office, Sheriff Williams was replaced by Sheriff Rochelle Bilal in January 2020 as Philadelphia’s Sheriff.

Cir. 1999), this is not enough to invoke state surrogate status. *See Carter* at 351 (“Pennsylvania case law makes it clear that performance of an essential sovereign function on behalf of or in the name of the state does not give rise to state surrogate status under state law.”) Thus, as articulated here and further described in its prior briefings, Defendant Williams is not a state actor in this context. Def.’s Rep. to Pls.’ Resp. Opp’n Def.’s Mot Dismiss 3, ECF No. 20. *But see McNeil* at \*3 (which concludes “by simply complying with state mandates that afford no discretion, [a county official] act[s] as an arm of the State.”).

Further under the Third Circuit framework laid out in *Carter*, the Sheriff is a local official, which *McNeil* does not address. Therefore, its application to this case is inapposite and Plaintiff’s claims against Defendant Williams fail.

Respectfully submitted,

/s/ Amy Kirby

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

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<b>THE PHILADELPHIA BAIL FUND,</b>	:	
<b>Plaintiffs,</b>	:	
	:	<b>Civil Action</b>
<b>v.</b>	:	<b>No. 19-3110</b>
	:	
<b>ARRAIGNMENT COURT MAGISTRATE</b>	:	
<b>JUDGES FRANCIS BERNARD,</b>	:	
<b>SHEILA BEDFORD, KEVIN DEVLIN,</b>	:	
<b>JAMES O'BRIEN, JANE RICE, and</b>	:	
<b>ROBERT STACK, in their official capacities;</b>	:	
<b>PRESIDENT JUDGE PATRICK DUGAN,</b>	:	
<b>in his Official capacity; and SHERIFF</b>	:	
<b>JEWELL WILLIAMS, in his official capacity,</b>	:	
<b>Defendants.</b>	:	

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**CERTIFICATE OF SERVICE**

I hereby certify that, on the date set forth below, I served a true and correct copy of the foregoing Reply was sent automatically by CM/ECF on the following counsel who are registered as CM/ECF filing users who have consented to acting electronic service through CM/ECF:

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