

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF  
PENNSYLVANIA

Babaesu Bey v. CO1 Shay Holt, et al.

Bey · No. 1:23-cv-00328 · Decided March 31, 2026

SUMMARY

The memorandum addresses multiple discovery-related motions, Defendants’ motion for summary judgment, and related requests for extensions in a prisoner civil-rights action under 42 U.S.C. § 1983. The court grants Defendants leave to file their response to an order to show cause nunc pro tunc, awards Plaintiff \$7.65 for reasonable expenses associated with his first motion to compel, denies expenses for his second motion to compel, and reopens discovery for sixty days. The court also denies Defendants’ summary-judgment motion without prejudice and establishes further deadlines.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Middle District of Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Yvette Kane                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| JURISDICTION          | United States District Court for the Middle District of Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                    |
| DECIDED               | March 31, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 1:23-cv-00328                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | The court considered multiple discovery-related motions, Defendants' motion for summary judgment, motions for extensions of time, and Plaintiff's motion to reopen discovery in an action under 42 U.S.C. § 1983.                                                                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | Under Federal Rule of Civil Procedure 16(b)(4), modification of a scheduling order requires good cause, generally evaluated by examining the moving party's diligence, prejudice, and other relevant circumstances. Under Rule 37(a)(5)(A), an award of reasonable expenses on a successful motion to compel is mandatory unless the movant failed to confer in good faith, the nondisclosure was substantially justified, or other circumstances make an award unjust. |
| PRECEDENTIAL VALUE    | unpublished district court memorandum; nonprecedential                                                                                                                                                                                                                                                                                                                                                                                                                  |
| PARTIES               | Babaesu Bey v. CO1 Shay Holt, et al.                                                                                                                                                                                                                                                                                                                                                                                                                                    |

## TOPICS

discovery dispute

sanctions

summary judgment

civil procedure

section 1983

## PRACTICE AREAS

civil procedure

prisoner civil rights

discovery and sanctions

## QUESTIONS PRESENTED

1. Whether Defendants should be permitted to file their response to the court's order to show cause nunc pro tunc.
2. Whether Bey was entitled to reasonable expenses incurred in filing his first and second motions to compel discovery.
3. Whether Bey's third motion to compel should be denied for failure to certify a good-faith conference.
4. Whether Bey's fourth motion to compel should be deemed withdrawn for failure to file a supporting brief.
5. Whether good cause existed to reopen discovery under Federal Rule of Civil Procedure 16(b)(4).
6. Whether Defendants' motion for summary judgment should be resolved before the reopened discovery period concluded.

## HOLDINGS

1. A party may be permitted to file a late response nunc pro tunc when the delay is brief, the opposing party suffers no material prejudice, and denying relief would unfairly prejudice the late-filing party.
2. Under Rule 37(a)(5)(A), a prevailing movant is entitled to reasonable expenses incurred in making a motion to compel when the movant attempted in good faith to obtain discovery without court action, the opposing party's failure was not substantially justified, and no circumstances make an award unjust.
3. A party is not entitled to expenses under Rule 37(a)(5)(A) for a motion to compel when the party did not attempt in good faith to obtain the discovery without court action and did not provide the required certification.
4. A motion to compel discovery may be denied when it lacks the certification that the movant attempted in good faith to confer with the opposing party before seeking court intervention.
5. Under Local Rule 7.5, a motion may be deemed withdrawn when the filing party does not file a supporting brief within fourteen days.
6. A court may reopen discovery and modify a scheduling order under Rule 16(b)(4) when the moving party demonstrates good cause, including diligence, lack of undue prejudice, and circumstances warranting additional discovery.
7. A motion for summary judgment may be denied without prejudice when discovery is reopened and the parties have not completed the additional discovery relevant to dispositive motions.

## KEY QUOTATIONS

*“Based on this language, payment of a movant’s reasonable expenses incurred in making the motion to compel is mandatory unless the Court finds that the failure to provide discovery is “substantially justified” or the “circumstances make an award of expenses unjust.””*

*“Therefore, the Court finds that Defendants’ failure to respond to Bey’s document requests was not substantially justified.”*

*“Accordingly, Bey is entitled to payment of his reasonable expenses in filing his First Motion to Compel.”*

## FACTUAL BACKGROUND

Babaesu Bey, a pro se incarcerated state prisoner, asserted First Amendment retaliation claims against twelve Pennsylvania Department of Corrections employees and an Eighth Amendment excessive-force claim against Shay Holt. Defendants failed to timely respond to Bey’s written discovery, and Bey filed successive motions to compel. After receiving discovery responses, Bey identified alleged gaps and inconsistencies concerning investigations, administrative custody, and prison records, prompting his request to reopen discovery.

## PROCEDURAL HISTORY

The court had previously set discovery and dispositive-motion deadlines and ordered Defendants to respond to Plaintiff’s written discovery. Defendants filed a motion for summary judgment and a late response to an order to show cause; Plaintiff filed additional motions to compel, a motion to reopen discovery, and a motion for an extension of time. The court granted limited relief, awarded Plaintiff \$7.65 in expenses for his first motion to compel, reopened discovery for sixty days, denied summary judgment without prejudice, and denied or deemed withdrawn the remaining motions as specified in the disposition.

## DISPOSITION

other

## CASES CITED

- ASD Specialty Healthcare, Inc. v. New Life Home Care, Inc., No. 11-cv-00068, 2013 WL 1482777, at \*7 (M.D. Pa. Apr. 10, 2013)
- LightStyles, Ltd. ex rel. Haller v. Marvin Lumber & Cedar Co., No. 13-cv-01510, 2015 WL 4078826, at \*2 (M.D. Pa. July 6, 2015)
- Tolerico v. Home Depot, 205 F.R.D. 169, 175–76 (M.D. Pa. 2002)
- NRA Grp., LLC v. Durenleau, No. 21-cv-00715, 2021 WL 5863842, at \*4 (M.D. Pa. Oct. 12, 2021)
- Fields v. Huot, No. 17-cv-02662, 2019 WL 220142, at \*2 (D. Minn. Jan. 16, 2019)
- Bowers v. Foster, No. 16-cv-00331, 2017 WL 473886, at \*3 (E.D. Wis. Feb. 3, 2017)
- Beard v. Deutsche Bank Nat’l Tr., No. 12-cv-000754, 2012 WL 12883045, at \*3 (W.D. Tex. Oct. 22, 2012)
- Browne v. Equifax Info. Servs. LLC, No. 23-cv-00064, 2024 WL 4315119, at \*5 (N.D. Ind. Sept. 27, 2024)
- Labadie v. Dennis, No. 07-cv-00480, 2008 WL 5411901, at \*4 (W.D. Mich. Dec. 23, 2008)
- Bado v. Southland Indus. Inc., No. 07-cv-01081, 2008 WL 11366415, at \*2 (D. Md. July 31, 2008)

- Brown v. Iowa, 152 F.R.D. 168, 174 (S.D. Iowa 1993)
- M & D Builders, Inc. v. Peck, 109 F.R.D. 410, 412 (D. Mass. 1986)
- Pegoraro v. Marrero, No. 10-cv-00051, 2012 WL 5964395, at \*4 (S.D.N.Y. Nov. 28, 2012)
- Paluch v. Dawson, No. 06-cv-01751, 2007 WL 4375937, at \*2 (M.D. Pa. Dec. 12, 2007)
- Caver v. City of Trenton, 192 F.R.D. 154, 159 (D.N.J. 2000)
- Miller v. Heil Co., No. 20-cv-00091, 2021 WL 12311672, at \*12 (W.D. Pa. July 29, 2021)
- King v. Verizon New Jersey, Inc., No. 21-cv-11226, 2023 WL 5817126, at \*4 (D.N.J. Sept. 6, 2023)
- Orr Indus. of Pa. LLC v. Muehling, No. 24-cv-01518, 2025 WL 3492821, at \*2 (M.D. Pa. Dec. 5, 2025)
- Race Tires Am., Inc. v. Hoosier Racing Tire Corp., 614 F.3d 57, 84 (3d Cir. 2010)
- Cramer v. Kerestes, No. 15-cv-01360, 2020 WL 1233630, at \*2 (M.D. Pa. Mar. 13, 2020)
- Trask v. Olin Corp., 298 F.R.D. 244, 267 (W.D. Pa. 2014)