

TOMMY T. BRANCH,
Plaintiff,

v.

NICHOLUS Y. CLARK, *et al.*,
Defendants.

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) Civil Action No. 13-cv-2005 (KBJ)
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Plaintiff Tommy T. Branch (“Branch”) has filed the instant *pro se* action against the District of Columbia Department of Corrections and one of its correctional officers, Nicholas Y. Clark (“Clark”), asserting that Clark entered Branch’s cell at D.C. Jail on May 27, 2013, assaulted Branch, and later attempted to throw him over a staircase rail. (*See generally* Complaint, ECF No. 1.) With the Court’s permission, Branch has twice amended his complaint, and now alleges four claims against the District and Clark—municipal liability under 42 U.S.C. § 1983, assault, intentional infliction of emotional distress, and negligence—and demands both compensatory and punitive damages.

Before this Court at present is the District's motion to dismiss of October 17, 2014, which requests dismissal of three of the four claims that Branch has brought against the District (all but assault) for failure to state a claim upon which relief can be granted, as well as dismissal of his demand for punitive damages. (*See* Def. D.C.'s Mot. to Dismiss Pl.'s Constitutional Tort Claim and Common Law Intentional Infliction of Emotional Distress, Negligence, and Punitive Damages Claims Against This Def., ECF No. 26.) This motion supplemented a prior motion to dismiss that the District

filed and that was pending when Branch amended his complaint for the second time. (See D.C.'s Mot. to Dismiss Pl.'s Am. Compl., ECF No. 18.) On the same day that the District filed its second motion seeking dismissal of nearly all of Branch's claims, Clark likewise moved to dismiss all of the claims against him in Branch's second amended complaint, except for assault and Branch's demand for punitive damages. (See Def. Nicholas Clark's Mot. to Dismiss the Claims of Intentional Infliction of Emotional Distress and Negligence in Pl.'s Second Am. Compl., ECF No. 24.)¹

This Court has advised Branch of his obligations under the Federal Rules of Civil Procedure and the local rules of this Court to respond to the Defendants' motions, and it specifically warned Branch that, if he did not file a comprehensive response to the District's [18] and [26] motions to dismiss by November 24, 2014, the Court could treat those motions as conceded. (Order, ECF No. 19; Order, ECF No. 23.) Likewise, the Court warned Branch that if he did not respond to Clark's [24] motion to dismiss by December 1, 2014, the Court could treat the motion as conceded as well. (Order, ECF No. 28.) To date, Branch has neither filed an opposition to any of the pending motions, nor requested more time to file his oppositions. Therefore, this Court will **GRANT** the Defendants' motions as conceded, and will **DISMISS** Branch's claims for municipal liability under 42 U.S.C. § 1983, negligence, and intentional infliction of emotional distress, and his demand for punitive damages against the District of Columbia, and also his claims for municipal liability under 42 U.S.C. § 1983, negligence, and intentional infliction of emotional distress against Clark. What remains of Branch's

¹ The District and Clark each also filed an answer to the assault claim in Branch's Second Amended Complaint. (See Def. Nicholas Clark's Ans. To Pl.'s Second Am. Compl., ECF No. 25; Def. D.C.'s Ans. To Pl.'s Second Am. Compl., ECF No. 27.)

action is his claim that both the District and Clark are liable to him for compensatory damages as the result of Clark's alleged assault of Branch, and his demand for punitive damages from Clark based on that assault—claims that Defendants have answered and which will now be litigated.

A separate Order accompanies this Memorandum Opinion.

Date: March 31, 2015

Ketanji Brown Jackson
KETANJI BROWN JACKSON
United States District Judge