

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WAYNE SAMUEL,

Plaintiff,

-v-

No. 1:14-CV-456
(DNH/RFT)

EXCELSIOR COLLEGE, KYLENE ABRAHAM,
and PEGGY GOLDEN,

Defendants.

APPEARANCES:

OF COUNSEL:

WAYNE SAMUEL
Plaintiff, Pro Se
190 York Street, 1C
Brooklyn, NY 11201

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Wayne Samuel brought this action alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. On April 30, 2014, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation that plaintiff's complaint be dismissed for failure to state a claim upon which relief can be granted but recommended that plaintiff be given an opportunity to file an amended complaint prior to dismissal. No objections to the Report-Recommendation were filed. However, plaintiff prematurely filed an amended complaint dated May 12 and received on May 14, 2014, prior to the deadline for objections and prior to any ruling by the undersigned on Magistrate Judge Treece's Report-

Recommendation.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Having reviewed plaintiff's amended complaint, it is found that the amended complaint does not cure the deficiencies addressed in Magistrate Judge Treece's Report-Recommendation. In the Report-Recommendation, Magistrate Judge Treece advised plaintiff that he must allege claims of misconduct or wrongdoing against defendants that he has a legal right to pursue and over which this court has jurisdiction. Plaintiff has failed to do so in his amended complaint. The amended complaint indicates that plaintiff's race is African American, a newly included fact, and also attaches numerous exhibits. However, plaintiff has added nothing to address the problems identified in the Report-Recommendation. Accordingly, plaintiff's entire complaint will be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for failing to state a claim upon which relief can be granted for the same reasons stated in the Report-Recommendation.

As plaintiff has already had an opportunity to amend, no further amendments will be permitted.

Therefore, it is

ORDERED that

1. Plaintiff's amended complaint is DISMISSED; and
2. The Clerk is directed to file a Judgment accordingly, serve a copy of this

Decision and Order and the Judgment on plaintiff, and close the file.

IT IS SO ORDERED.

United States District Judge

Dated: May 20, 2014
Utica, New York.