

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VICTOR L. YOUNG, SR.,

Plaintiff,

vs.

5:04-CV-611(NAM)

CITY OF SYRACUSE DEPARTMENT OF
PUBLIC WORKS, JEFFREY LOPES, JEFFREY
WRIGHT and JOHN WALSH,

Defendants.

APPEARANCES:

OF COUNSEL:

Victor L. Young, Sr.
211 Schaffer Avenue
Syracuse, New York 13206
Plaintiff, *Pro Se*

City of Syracuse Corporation Counsel
233 E. Washington Street
Room 301, City hall
Syracuse, New York 13202-1252
Attorney for Defendants

Joseph Francis Bergh, Esq.

Norman A. Mordue, Chief U.S. District Judge

DECISION AND ORDER

On August 27, 2007, Judge Sharpe issued an order granting summary judgment in favor of defendants.¹ On January 21, 2009, the Second Circuit vacated and remanded this case and directed the District Court to afford plaintiff the opportunity to amend his complaint, should he desire to do so, to include allegations under Section 1983. On March 4, 2009, Judge Sharpe issued a Memorandum-Decision and Order (Dkt. No. 55) directing plaintiff to file any proposed

¹ In the August 27, 2007 Memorandum-Decision and Order (Dkt. No 49), the Court ordered that the complaint be dismissed in its entirety and referenced Dkt. No. 1. However, plaintiff filed two amended complaints (Dkt. Nos. 20 and 37). Therefore, the appropriate reference number is Dkt. No. 37.

amended complaint, naming all of the intended defendants in the caption, and to file such pleading with the Court no later than April 8, 2009.² Plaintiff has failed to comply with that order and has failed to submit any amended complaint by the April 8, 2009 deadline. Plaintiff has made no requests for any extension of time.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a court may, in its discretion, dismiss an action based upon the failure of a plaintiff to prosecute an action or comply with any order of the court. *Link v. Wabash R.R. County Indep. Sch. Dist.*, 370 U.S. 626 (1962). This power to dismiss may be exercised when necessary to achieve orderly and expeditious disposition of cases. *See Freeman v. Lundrigan*, 1996 WL 481534, *1 (N.D.N.Y. 1996) (citing *Rodriguez v. Walsh*, 1994 WL 9688, *1 (S.D.N.Y. 1994) (other citations omitted)). Upon due consideration of plaintiff's *pro se* status, the Court will afford him a **final** opportunity to file an amended complaint in this action within 30 days of the date of this Order. If plaintiff wishes to proceed with this action he must submit an amended complaint **no later than June 8, 2009**. This deadline is **final**; no requests for additional time will be considered. If plaintiff does not submit an amended complaint **on or before June 8, 2009**, the Clerk shall again enter judgment dismissing this action, without prejudice, without further order of this Court.

WHEREFORE, it is hereby

ORDERED that plaintiff is afforded a **FINAL** opportunity to file an amended complaint **no later than June 8, 2009**, and it is further

ORDERED that if plaintiff fails to timely file an amended complaint on or before

² The Court did not advise plaintiff that if he failed to comply with the terms of the Order, the action would be dismissed

June 8, 2009, the Clerk shall enter judgment dismissing this action, without prejudice,
without further order of this Court, and it is further

ORDERED that the Clerk serve a copy of this Order on plaintiff.

IT IS SO ORDERED.

Dated: May 8, 2009
Syracuse, New York



Norman A. Mordue
Chief United States District Court Judge

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