

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARLOS ABREU,

Plaintiff,

v.

9:08-CV-1109
(TJM/DEP)

AMBER LASHWAY, *et al.*,

Defendants.

APPEARANCES:

CARLOS ABREU

Plaintiff, *pro se*

99-A-3027

Southport Correctional Facility

P.O. Box 2000

Pine City, NY 14871

THOMAS J. McAVOY, SENIOR DISTRICT JUDGE

DECISION and ORDER

Presently before the Court for consideration is an amended complaint from *pro se* plaintiff Carlos Abreu. Dkt. No. 7.¹ Plaintiff has submitted this amended pleading as directed by the Court in its Decision and Order filed November 4, 2008. Dkt. No. 5 (the “November Order”).

Plaintiff’s amended complaint, while not a model of clarity and exceedingly lengthy, provides additional facts in support of his claims and substantially addresses the various deficiencies in his original pleading identified by the Court in the November Order. Accordingly, mindful of the Second Circuit’s exhortation that a *pro se* plaintiff’s

¹ Plaintiff has two other civil actions pending in the Northern District. See *Abreu v. Hicks*, 9:08-CV-0249 (NAM/DEP) and *Abreu v. Graham*, 9:08-CV-0855 (DNH/DEP). Those actions raise claims arising out of plaintiff’s confinement at Great Meadow Correctional Facility and Auburn Correctional Facility, respectively. The events giving rise to plaintiff’s claims in this action occurred at Clinton Correctional Facility.

pleadings must be liberally construed, *see e.g. Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 191 (2d Cir. 2008), the amended complaint is accepted for filing. In so ruling, the Court expresses no opinion as to whether plaintiff's claims can withstand a properly filed motion to dismiss or for summary judgment.

WHEREFORE, it is hereby

ORDERED, that upon receipt from plaintiff of the documents required for service of process, the Clerk shall issue summonses and forward them, along with copies of the amended complaint, to the United States Marshal for service upon the defendants.² The Clerk shall forward a copy of the summons and amended complaint to the Office of the New York State Attorney General, together with a copy of this Order, and it is further

ORDERED, that a response to plaintiff's amended complaint shall be filed by the defendants or their counsel as provided for in the Federal Rules of Civil Procedure subsequent to service of process on the defendants, and it is further

ORDERED, that all pleadings, motions and other documents relating to this action shall be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a proper**

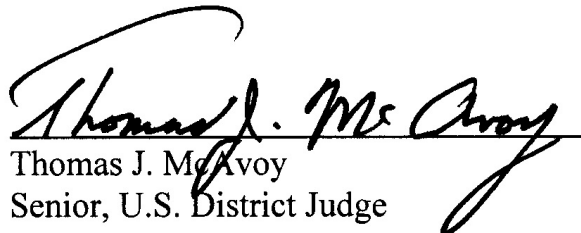
² Plaintiff's *in forma pauperis* application was granted by the Court in the November Order. Dkt. No. 5.

certificate of service is to be stricken from the docket. Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. Motions must comply with Local Rule 7.1 of the Northern District of New York and are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. **Plaintiff must promptly notify the Clerk's Office of any change in his address; his failure to do so will result in the dismissal of this action.** All motions will be decided on submitted papers, without oral argument, unless otherwise ordered by this Court, and it is further

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

IT IS SO ORDERED.

Dated: April 22, 2009


Thomas J. McAvoy
Senior, U.S. District Judge