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NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

MALCOLM GATSON,

Plaintiff,

v.

A.O., 1 et al.,

Defendants.

Civil Action No. 17-2710-BRM-TJB

OPINION

MARTINOTTI, DISTRICT JUDGE

Before this Court is Plaintiff Malcom Gatson's ("Plaintiff") complaint (the "Second Complaint") (ECF No. 1), asserting claims pursuant to 42 U.S.C. § 1983. For the reasons set forth below, the Court directs the Clerk of the Court to refile the Second Complaint (ECF No. 1) as a supplement to the complaint filed in Docket Number 17-2014 (the "Original Complaint") (Docket No. 17-2014 at ECF No. 1) and **DISMISS** this docket as duplicative of that matter.

On or about March 27, 2017, Plaintiff filed the Original Complaint raising claims pursuant to 42 U.S.C. § 1983. (*See* Docket No. 17-2014 at ECF No. 1.) Specifically, he alleged a woman identified as A.O. falsely accused him of rape and robbery and that prosecutors and police withheld evidence from him in his ongoing criminal matter in the state courts. (*Id.* at 4-7.) Plaintiff also sought to proceed *in forma pauperis* in that matter. (*See* Docket No. 17-2014 at ECF No. 1-2.) On March 31, 2017, this Court denied Plaintiff's application to proceed *in forma pauperis* without

¹In his Original Complaint (*see* Docket No. 17-2014 at ECF No. 1), Plaintiff names as a defendant a woman he claims has accused him of rape (*id.* at 1 n.1), and the Court refers to her by her initials due to the sensitive nature of the facts at issue in the complaint. *See, e.g., Florida Star v. B.J.F.*, 491 U.S. 524, 527 n.2 (1989).

prejudice, and administratively terminated Plaintiff's Original Complaint until Plaintiff either paid

the filing fee or refiled his application to proceed in forma pauperis. (Id.)

On April 20, 2017, Plaintiff filed two new similar but separate complaints with two new

docket numbers (the Second Complaint currently before the Court and a third complaint (the

"Third Complaint") (Docket No. 17-2712 at ECF No. 1)) asserting nearly identical claims to the

Original Complaint and two applications to proceed in forma pauperis.² The Second Complaint

asserts claims under 42 U.S.C. § 1983 against police detectives for concealing evidence in his

criminal case arising out of A.O.'s accusations. (ECF No. 1.) The claims raised in Plaintiff's

Second Complaint allege the same conduct addressed in his Original Complaint, but elaborate

upon one of the claims asserted in the Original Complaint, that evidence was being withheld from

him by prosecutors and the police. Because Plaintiff's Second Complaint raises claims similar to

his Original Complaint but provides additional facts, Plaintiff's Second Complaint is duplicative

of his Original Complaint and therefore the Court directs the Clerk of the Court to refile Plaintiff's

Second Complaint as a supplement to his Original Complaint under his original docket number

and dismiss this docket as duplicative of that matter. See e.g., Fabics v. City of New Brunswick,

629 F. App'x 196, 198 (3d Cir. 2015) (noting that district courts faced with a duplicative complaint

can "stay the second action, consolidate it with the first, or dismiss the second complaint without

prejudice").³ An appropriate Order will follow.

Date: May 22, 2017

/s/Brian R. Martinotti

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UNITED STATES DISTRICT JUDGE

² The Court is simultaneously issuing a separate opinion and order addressing the Third

Complaint on Docket No. 17-2712.

³ Plaintiff also seeks to proceed *in forma pauperis* in this matter. (ECF No. 1-1.) This Court will address Plaintiff's *in forma pauperis* application in a separate opinion after the Second Complaint

is refiled as a supplement to Plaintiff's Original Complaint under Docket Number 17-2014.

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