

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KRISTOPHER CUNNINGHAM,
Plaintiff,

– against –

FEDERAL BUREAU OF PRISONS,
Defendant.

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: **MEMORANDUM DECISION AND**
: **ORDER**
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: 23-CV-06376 (AMD) (LB)
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ANN M. DONNELLY, United States District Judge:

The *pro se* plaintiff, Kristopher Cunningham, who is currently incarcerated at the Metropolitan Detention Center (“MDC”), filed this complaint in the United States District Court for the Southern District of New York against the Federal Bureau of Prisons (“BOP”), alleging inadequate medical care in violation of his Eighth Amendment rights. (ECF No. 1.) Specifically, he alleged that he is “not being treated for [his] undiagnosed flesh eating virus.” (*Id.* at 4.)

On August 15, 2023, the Southern District transferred the action to this Court. On September 8, 2023, I granted the plaintiff’s request to proceed *in forma pauperis*, dismissed the complaint under 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted, and granted the plaintiff 45 days’ leave to amend his complaint. (ECF No. 9.) I informed the plaintiff that if he did not file an amended complaint within the time allowed, his claims would be dismissed, and the action would be closed. (*Id.*) The plaintiff did not respond to the Court’s order, and on October 25, 2023, I *sua sponte* extended the deadline to file an amended complaint to December 11, 2023. To date, the plaintiff has not filed an amended complaint or otherwise contacted the Court.

Accordingly, the action is dismissed with prejudice. The Clerk of Court is respectfully directed to enter judgment, close this action, and mail a copy of this Order and the judgment to the plaintiff.

The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order would not be taken in good faith. Therefore, *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
January 16, 2024