

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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MACK BUTLER,

Plaintiff,
-against-

SUFFOLK COUNTY SHERIFF VINCENT
R. DEMARCO, JOSEPH T. CARACAPPA,
JOHN P. MEYERRICKS, in their
Individual and official capacity,

Defendants.

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APPEARANCES:

For Plaintiff: Mack Butler, Pro Se
#217709
Nassau County Correctional Center
100 Carman Ave.
East Meadow, NY 11554

For Defendants: No appearance

SEYBERT, District Judge:

Presently pending before the Court is the pro se Complaint brought by incarcerated pro se plaintiff Mack Butler ("Plaintiff") pursuant to 42 U.S.C. § 1983 ("Section 1983"), accompanied by an application to proceed in forma pauperis. Upon review of the declaration in support of the application to proceed in forma pauperis, the Court determines that the Plaintiff's financial status qualifies him to commence this action without prepayment of the \$350.00 filing fee. See 28 U.S.C. §§ 1914(a); 1915(a)(1). Therefore, Plaintiff's request to proceed in forma pauperis is GRANTED.

Having reviewed the pro se Complaint, the undersigned declines to conclude at this stage that the within action is

MEMORANDUM AND ORDER
12-CV-3917 (JS) (GRB)

FILED
CLERK

9/19/2012 3:10 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

frivolous or malicious within the meaning of 28 U.S.C. § 1915. While it may be that Plaintiff is unable to prevail on his claim, the Court's uncertainty does not justify dismissal at this early juncture. McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004). Accordingly, the application to proceed in forma pauperis is GRANTED and the Court orders service of the Complaint without prepayment of the filing fee.

The Clerk of the Court is directed to forward to the United States Marshal for the Eastern District of New York copies of Plaintiff's Summons, Complaint, and this Order for service upon the Defendants without prepayment of fees. Furthermore, the Clerk is directed to mail a copy of this Order to the Plaintiff.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 19, 2012
Central Islip, New York