

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STOKER OLUKOTUN WILLIAMS,

Plaintiff,

-against-

MEMORANDUM & ORDER
14-CV-5742 (JS) (ARL)

DR. VINCENT GERACI, CHARLES EWALD,
DEPUTY ALLEN SHAPIRO, NURSE PAT DONNADIO,
NURSE LAIRD MERRDEL, NURSE KRISTEN
CERMINARO, MARION WEBSTER, OFFICER ROBERT
"BOB" KOCH, SUFFOLK COUNTY, and
DEPUTY DOUGLAS MEHRMAN,

Defendants.

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APPEARANCES

For Plaintiff: Stoker Olukotun Williams, pro se
Inmate No. 16A5064
Downstate Correctional Facility
121 Red Schoolhouse Road
P.O. Box F
Fishkill, NY 12524

For Defendants: Brian C. Mitchell, Esq.
Suffolk County Attorney
100 Veteran's Memorial Highway
P.O. Box 6100
Hauppauge, NY 11788

SEYBERT, District Judge:

Currently pending before the Court is defendants Dr. Vincent Geraci, Charles Ewald, Deputy Allen Shapiro, Nurse Pat Donnadio, Nurse Laird Merrdel, Nurse Kristen Cerminaro, Marion Webster, Officer Robert "Bob" Koch, Suffolk County, and Deputy Douglas Mehrman's (collectively, "Defendants") partial motion to dismiss plaintiff Stoker Olukotun Williams' ("Plaintiff") Second Amended Complaint ("Defendants' Motion"). (Defs.' Mot., Docket

Entry 122.) For the following reasons, Defendants' Motion is GRANTED.

Briefly, on September 16, 2015, Plaintiff filed a motion for leave to amend his Amended Complaint (the "Motion to Amend"). (Pl.'s Mot. to Amend, Docket Entry 60.) Plaintiff sought to add Deputy Sheriff Allen Shapiro ("Shapiro"), Deputy Sheriff Douglas Mehrman, and Assistant County Attorney Chris Gatto ("ACA Gatto") as defendants in this action. (See Pl.'s Mot. to Amend at 2.) Additionally, Plaintiff sought to assert a claim of "medical negligence" against all Defendants and claims for "intentional infliction of emotional distress, harassment and sexual harassment" against defendant Officer Robert "Bob" Koch. (Pl.'s Mot. to Amend at 2.)

On May 6, 2016, Magistrate Judge Arlene R. Lindsay granted in part and denied in part Plaintiff's Motion to Amend. (Order, Docket Entry 114.) Judge Lindsay granted Plaintiff's motion to the extent he sought to add Shapiro and Mehrman as defendants and "add [Nurse Marion Webster] to the caption in place of 'Jane Doe Nurse.'" (Order at 1 n.1; 4.) Judge Lindsay denied Plaintiff's request to add ACA Gatto as a defendant as well as his request to assert a claim for "medical negligence." (Order at 4-7.) Finally, Judge Lindsay directed Plaintiff to file and serve "a revised second amended complaint consistent with th[e] order." (Order at 7.) Judge Lindsay noted that "[s]ince the amended

pleading simply adds the names of the deputies, it should not require additional discovery.” (Order at 7.)

On June 28, 2016, Plaintiff filed his second Amended Complaint (the “Second Amended Complaint”). (Sec. Am. Compl., Docket Entry 123.) In addition to including Webster, Shapiro, and Mehrman as defendants, the Second Amended Complaint also names Nurse Pat Donnadio, Nurse Laird Merrdel, and Nurse Kristin Cerminaro as defendants. (Sec. Am. Compl. at 1.)¹ Further, the Second Amended Complaint contains a “motion to compel,” a request for log book pages, and an affidavit addressing Judge Lindsay’s Order denying his request for correction log book pages and her Order determining his Motion to Amend. (Sec. Am. Compl. at 41-51.) On June 29, 2016, Defendants filed their Motion and requested “that the claims against Nurses Donnadio, Merrdel and Cerminaro not be recognized by this court and be declared a nullity as the plaintiff was not granted permission to make such an amendment.” (Defs.’ Mot. at 1.)

The Court construes Judge Lindsay’s Order as providing Plaintiff with narrow leave to amend his Amended Complaint to add Webster, Shapiro, and Mehrman to the caption. (See generally Order.) Accordingly, Defendants’ motion is GRANTED, and the Court will not consider any claims against Donnadio, Merrdel, or

¹ The Court will utilize the Electronic Case Filing pagination when referring to the Second Amended Complaint.

Cerminaro. Additionally, the Court sua sponte declines to consider the discovery requests set forth in Plaintiff's Second Amended Complaint. (See Sec. Am. Compl. at 41-51.) While the Court is mindful of Plaintiff's pro se status, any discovery requests or other applications must be made separately by motion and are not properly included in the Second Amended Complaint.

CONCLUSION

For the foregoing reasons, Defendants' partial motion to dismiss (Docket Entry 122) is GRANTED and Plaintiff's claims against Nurse Pat Donnadio, Nurse Laird Merrdel, and Nurse Kristen Cerminaro are DISMISSED. The Clerk of the Court is directed to TERMINATE Donnadio, Merrdel, and Cerminaro as defendants in this action and mail a copy of this Memorandum and Order to the pro se Plaintiff. Given Plaintiff's pro se status, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Memorandum and Order would not be taken in good faith and therefore in forma pauperis status is DENIED for purposes of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED.

/s/ JOANNA SEYBERT

Joanna Seybert, U.S.D.J.

Dated: January 10, 2017
Central Islip, New York