

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KARON FOOTMAN,

Plaintiff,

MEMORANDUM AND ORDER

23-CV-01537 (NRM) (LDG)

-against-

JANE DOE, Correctional Officer; JOHN DOE,
Transit Deputy #1; JOHN DOE, Transit Deputy #2;
JOHN DOE, Exam Doctor; JOHN DOE, Emergency
Room Exam Doctor; and ERROL D. TOULON,
Sheriff Office S.C.C.F,

Defendants.¹

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NINA R. MORRISON, United States District Judge:

Pro se plaintiff Karon Footman, currently detained at the Suffolk County Correctional Facility (“SCCF”), filed the instant complaint on February 24, 2023, and alleged constitutional violations arising from inadequate medical care at SCCF. By memorandum and order dated April 3, 2023, this Court granted Plaintiff’s request to proceed *in forma pauperis* and dismissed Plaintiff’s claim against the SCCF for failure to state a claim upon which relief may be granted. ECF No. 8. Plaintiff was granted leave to file an amended complaint, and he so filed on April 17, 2023. ECF No. 10.

Plaintiff’s action may now proceed once the John Doe Defendants are identified.

Therefore, it is:

¹ The Clerk of Court is respectfully directed to amend the caption of this action to reflect the Defendants named in Plaintiff’s amended complaint and captioned above.

ORDERED that in accordance with *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam), the Court hereby requests that the Suffolk County Attorney ascertain the full names of (1) the John Doe Transit Officers who transported Plaintiff to and from Winslow Medical Center on or about December 9, 2022 and (2) the full names of the medical personnel employed by the County or another governmental agency, if any, who treated Plaintiff at Winslow Medical Center on that date.² The Suffolk County Attorney is to provide the full names of these individuals and provide the addresses where they can currently be served. The County need not undertake to defend or indemnify these individuals at this juncture, and it is further;

ORDERED that the Suffolk County Attorney is hereby requested to produce the information specified above regarding the identity of the defendants and the addresses where they can be served to the Court within forty-five (45) days from the date of this Order; once they have been identified, Plaintiff's amended complaint shall be deemed amended to reflect the full name of these individuals as defendants (without need for any additional amendments or filings by Plaintiff at that time), a summons shall issue for these individuals, and the Court shall direct service on these defendants, and it is further;

² At this juncture, the Court cannot direct service of process on the unidentified doctors. By conducting discovery, Plaintiff may be able to identify the John Doe physicians employed at Winslow Medical Center and at PBMC Hospital. Although the Constitution regulates only the conduct of government actors and not that of private parties, *Ciambriello v. Cnty. of Nassau*, 292 F.3d 307, 323 (2d Cir. 2002), if a private actor was a willful participant in joint activity with the State or its agents, or conspired with a state actor to violate Plaintiff's constitutional rights, they may be considered to be acting under color of state law for the purpose of Section 1983. See *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*, 531 U.S. 288, 295 (2001) (“[S]tate action may be found if, though only if, there is such a ‘close nexus between the State and the challenged action’ that seemingly private behavior ‘may be fairly treated as that of the State itself.’” (quoting *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 351 (1974))).

ORDERED that this action is referred to Magistrate Judge Lee G. Dunst for pretrial proceedings.

The Clerk of Court is directed to mail a copy of this Order to the Office of the Suffolk County Attorney and to Plaintiff.

SO ORDERED.

/s/ NRM
NINA R. MORRISON
United States District Judge

Dated: May 19, 2023
Brooklyn, New York