

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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FREDDY TRIANA,
Plaintiff,
vs 5:10-CV-691
SYRACUSE CITY SCHOOL DISTRICT; and
BRIAN NOLAN,
Defendants.

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APPEARANCES:

OF COUNSEL:

FREDDY TRIANA
Plaintiff, Pro Se
402 Robineau Road
Syracuse, NY 13210

FERRARA, FIORENZA, LARRISON,
BARRETT & REITZ, P.C.
Attorneys for Defendants
5010 Campuswood Drive
East Syracuse, NY 13057

CHARLES E. SYMONS, ESQ.

DAVID N. HURD
United States District Judge

ORDER

Plaintiff filed his complaint on June 15, 2010, on the basis of race and national origin discrimination in violation of Title VII of the 1964 and 1991 Civil Rights Act, 42 U.S.C. § 2000e, et seq. (Docket No. 1). Defendants move to dismiss pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(6), and 56. (Docket No. 8). Plaintiff opposed. (Docket No. 12). Defendants replied. (Docket No. 15).

Plaintiff admits that he did not comply with the conditions precedent required to commence a Title VII claim. He has also failed to assert any facts that he was prevented

from, or mislead by the defendants, from exercising his legal rights. Thus, his Title VII action is untimely. Plaintiff's assertion of 42 U.S.C. § 1981 to avoid dismissal is unavailing.

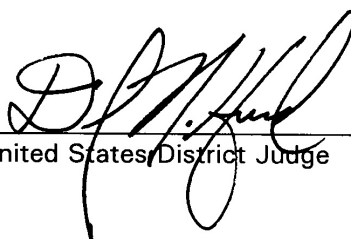
Therefore, it is

ORDERED, that the complaint is DISMISSED.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Dated: October 14, 2010
Utica, New York.



United States District Judge