

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Willie Morris, also known as Willie F. Morris,

Plaintiff,

-v-

5:16-CV-601 (NAM/TWD)

Jason Martin, Police Officer, sued in individual capacity; Jason Seward, Police Officer, sued in individual capacity; David Soares, District Attorney, sued in individual capacity; Steve Korkoff, Chief of Police, sued in individual and official capacity; City of Albany, sued in individual and official capacity; and County of Albany, sued in individual and official capacity,

Defendants.

APPEARANCES:

Willie Morris
14-A-0894
Upstate Correctional Facility
P.O. Box 2001
Malone, New York 12953
Plaintiff, *pro se*

The Rehfuss Law Firm, P.C.
Abigail W. Rehfuss, Esq., of counsel
Stephen J. Rehfuss, Esq., of counsel
40 British American Blvd.
Latham, New York 12110
Attorneys for Defendants

Hon. Norman A. Mordue, Senior U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Presently before the Court is the January 5, 2017 Order and Report-Recommendation (Dkt. No. 27) issued by United States Magistrate Judge Thérèse Wiley Dancks upon initial review of plaintiff's *pro se* amended complaint. Magistrate Judge Dancks recommends that the amended

complaint be dismissed with prejudice as against District Attorney Soares and Albany County and allowed to proceed against the remaining defendants Jason Martin, Jason Seward, Steve Korkoff, and the City of Albany. On January 20, 2017, plaintiff filed an objection (Dkt. No. 32).

The Court has conducted *de novo* review of the Report-Recommendation, plaintiff's objection, and the entire file. The Court adopts and accepts the Report-Recommendation.

While the Report and Recommendation was still pending before this Court, defendants Jason Martin, Jason Seward, Steve Korkoff, and the City of Albany moved (Dkt. No. 34) to dismiss the action. The Court denied the premature motion without prejudice (Dkt. No. 37). Plaintiff then filed papers (Dkt. No. 38) in opposition to defendant's dismissal motion. Now that the Court has accepted the Report-Recommendation, the defendants' dismissal motion is properly before the Court. Accordingly, the Court reopens defendants' motion (Dkt. No. 34) and vacates the Order (Dkt. No. 37) denying the motion without prejudice. Defendants are not required to re-file their motion papers, nor is plaintiff required to re-file his opposition.

It is therefore

ORDERED that the Report-Recommendation of United States Magistrate Judge Thérèse Wiley Dancks (Dkt. No. 27) is adopted and accepted; and it is further

ORDERED that the amended complaint is dismissed with prejudice as against District Attorney Soares and Albany County; and it is further

ORDERED that the case shall proceed against the remaining defendants Jason Martin, Jason Seward, Steve Korkoff, and the City of Albany; and it is further

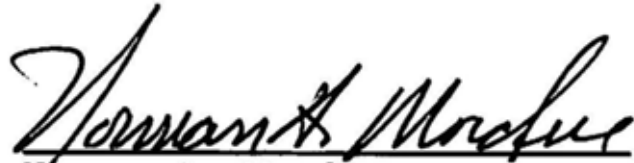
ORDERED that the Order (Dkt. No. 37) denying defendants' motion without prejudice is vacated; and it is further

ORDERED that the clerk of the Court is directed to reopen defendants' motion at (Dkt. No. 34); and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: March 22, 2017
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge

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