

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIE MORRIS,

Plaintiff,

-v-

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

**JASON MARTIN, JASON SEWARD, DAVID
SOARES, STEVE KORKOFF, CITY OF ALBANY,
and COUNTY OF ALBANY,**

Defendants.

APPEARANCES:

WILLIE MORRIS
14-A-0894
Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13021
Plaintiff, *pro se*

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

MEMORANDUM-DECISION AND ORDER

Upon initial review, United States Magistrate Judge Thérèse Wiley Dancks has prepared an Order and Report and Recommendation (Dkt. No. 4) granting plaintiff's application for *in forma pauperis* status and recommending as follows:

- that the complaint (Dkt. No. 1) be dismissed without prejudice and with leave to amend against defendants City of Albany and Albany County;
- that the complaint be dismissed as against defendant District Attorney Soares, and that the dismissal be with prejudice on absolute immunity grounds, except as to plaintiff's claims that Soares created practices and policies that Martin and Soares used to pursue and falsely charge plaintiff and that Soares failed to supervise and discipline the agents he used to investigate criminal charges against plaintiff, and that as to those claims the dismissal be without prejudice and with leave to amend;
- that the action be allowed to proceed against defendants Martin, Seward, and Korkoff, and that these defendants, or their counsel, be required to file a response as provided for in Rule 12 of the Federal Rules of Civil Procedure; and

- that plaintiff be instructed that any amended complaint must be a complete pleading that supersedes his original complaint in all respects (and does not incorporate by reference any portion of his original complaint); and that he not attempt to reassert any claims that have been dismissed with prejudice.

Plaintiff has not objected to Magistrate Judge Dancks's Report and Recommendation. Rather, he has filed a letter motion dated July 6, 2016 (Dkt. No. 5) requesting that he be given until August 5, 2016 to file an amended complaint.

Upon review of the Report and Recommendation, the Court finds no error. The Court accepts the Report and Recommendation in its entirety. Due to the passage of time since plaintiff requested an extension of time to file his amended complaint, the Court extends his time to do so until August 22, 2016. It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 4) is accepted; and it is further

ORDERED that the complaint (Dkt. No. 1) is dismissed without prejudice and with leave to amend against defendants City of Albany and Albany County; and it is further

ORDERED that the Court dismisses with prejudice, on grounds of absolute immunity, all claims against District Attorney Soares, except for the following claims, which the Court dismisses without prejudice and with leave to amend: (1) the claims that District Attorney Soares created practices and policies that he and Jason Martin used to pursue and falsely charge defendant; and (2) the claims that that Soares failed to supervise and discipline the agents he used to investigate criminal charges against plaintiff; and it is further

ORDERED that the action shall proceed against defendants Jason Martin, Jason Seward, and Steve Korkoff; and these defendants, or their counsel, shall file a response in accordance with


Fed. R. Civ. P. 12; and it is further

ORDERED that any amended complaint must be a complete pleading that supersedes the original complaint in all respects (and does not incorporate by reference any portion of his original complaint); and that plaintiff shall not reassert any claims that have been dismissed with prejudice; 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: July 28, 2016
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge

N

V

M