

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIE JAMES YELDON,

Plaintiff,

-v-

9:12-CV-1564 (NAM/ATB)

JOHN CAULKIN, et al.,

Defendants.

APPEARANCES:

Willie James Yeldon
C-97716
CNY PC
PO Box 300
Marcy, New York 13403
Plaintiff, *pro se*

Office of Lisa A. Gilels
Lisa A. Gilels, Esq., of counsel
333 East Onondaga Street
Syracuse, New York 13202
Attorney for Plaintiff

Hon. Eric T. Schneiderman, Attorney General of the State of New York
Justin L. Engel, Esq., Assistant New York State Attorney
Litigation Bureau
The Capitol
Albany, New York 12224
Attorney for Defendants

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

MEMORANDUM-DECISION AND ORDER

On February 12, 2016, plaintiff, his attorney, counsel for defendants, and United States Magistrate Judge Andrew T. Baxter signed a “So Ordered” stipulation (Dkt. No. 98) pursuant to

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Fed. R. Civ. P. 41(a)(1)(A)(ii) dismissing with prejudice the above-captioned action.¹ In the stipulation, plaintiff also agreed to execute a separate stipulation discontinuing a lawsuit currently pending in the Western District of New York, *Yeldon v. Fischer*, 1:07-CV-370 (W.D.N.Y.).

Thereafter, by letter docketed on March 14, 2016, plaintiff moved (Dkt. No. 99) to vacate the stipulation on various grounds. By Report and Recommendation dated April 4, 2016 (Dkt. No. 103), Magistrate Judge Baxter recommended that this Court deny plaintiff's motion and approve the dismissal of this action.

Plaintiff has filed an objection (Dkt. No. 104) to the Report and Recommendation and a reply (Dkt. No. 105) to defendants' opposition to his motion to vacate the stipulation. Based on the content of these two submissions, the Court conducts *de novo* review of the issues. Having reviewed the transcript of the settlement proceedings as well as all other relevant submissions, the Court agrees with Magistrate Judge Baxter that the issues raised by plaintiff do not warrant vacatur under Fed. R. Civ. P. 60(b) or any other relief. The Court accepts the Report and Recommendation, denies plaintiff's vacatur motion, finds that the stipulation is enforceable, and approves dismissal of the action. Moreover, because the stipulation expressly so stated, the dismissal is with prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B).

It is therefore

ORDERED that upon *de novo* review, the Report and Recommendation (Dkt. No. 103) is accepted; and it is further

ORDERED that plaintiff's motion (Dkt. No. 99) to vacate the stipulation (Dkt. No. 98) is

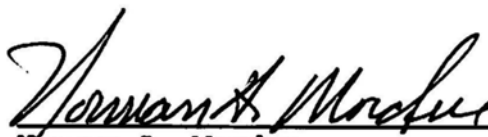
¹ As noted by Magistrate Judge Baxter, because the stipulation was executed by all parties, it is effective even in the absence of a court order. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii).

denied; 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: August 1, 2016
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge

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