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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SAMUEL LOUIS-CHARLES,)	
)	
)	
Plaintiff,)	CASE NO. 16-CV-1417
)	
vs.)	
)	
BAKER, et al.,)	
)	
Defendants.)	
)	

**TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. CHRISTIAN F. HUMMEL
WEDNESDAY, MARCH 21, 2018
ALBANY, NEW YORK**

FOR THE PLAINTIFF:

SAMUEL LOUIS-CHARLES, Pro Se
(Present via telephone)
Livingston Correctional Facility, PO Box 91
Sonyea, New York 14556

FOR THE DEFENDANTS:

MENTER, RUDIN & TRIVELPIECE, P.C.
By: TERESA M. BENNETT, ESQ.
(Present via telephone)
308 Maltbie Street, Suite 200
Syracuse, New York 13204-1498

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1 (Open court, 2:00 p.m.)

2 THE CLERK: The case is Louis-Charles versus Baker et
3 al., docket No. 16-CV-1417. Appearances for the record, please.
4 Plaintiff, you can state your name.

5 MR. LOUIS-CHARLES: Samuel Louis-Charles.

6 THE CLERK: Thank you. Ms. Bennett.

7 MS. BENNETT: For the defendants, Theresa Bennett,
8 Menter, Rudin & Trivelpiece.

9 THE COURT: Good afternoon, Mr. Louis-Charles. Good
10 afternoon, Ms. Bennett. This is Judge Hummel. I scheduled this
11 conference, Mr. Louis-Charles and Ms. Bennett, so we could
12 address, Mr. Louis-Charles, sir, the letter motion which you
13 filed back on February 16, 2018, by which you seek to strike
14 your deposition which was taken in this matter and to stay any
15 response by you to the Motion for Summary Judgment.

16 Mr. Louis-Charles, are you still seeking to have the
17 Court strike your deposition?

18 MR. LOUIS-CHARLES: Yes, sir.

19 THE COURT: Mr. Louis-Charles, sir, I can't hear you.

20 MR. LOUIS-CHARLES: Yes, sir.

21 THE COURT: What I'm going to do, I'm going to put on
22 the record, Mr. Louis-Charles and Ms. Bennett, what has taken
23 place up until today's date. Then I will listen to you,
24 Mr. Louis-Charles, tell me anything else you'd like to tell me
25 in support of your motion to strike the deposition. Then I'm

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1 going to listen to Ms. Bennett. Then I will render a decision
2 which I will put on the bench -- excuse me, put on the record
3 from the bench, which will govern this matter.

4 Docket No. 50 is the defendants' Motion for Summary
5 Judgment which was filed back on January 31, 2018.

6 Docket No. 54 is a letter motion from the plaintiff,
7 Mr. Louis-Charles, seeking an extension of time to file a
8 response to the Motion for Summary Judgment. That was filed on
9 February 14, 2018.

10 Docket No. 56 is a text order extending plaintiff's
11 time to file a response to the Motion for Summary Judgment which
12 was filed on February 16, 2018.

13 Docket No. 57 is the letter motion filed by
14 Mr. Louis-Charles which we're going to address today seeking to
15 strike his deposition and to stay his response to the Motion for
16 Summary Judgment, that having been filed on February 16, 2018.

17 Docket No. 60 is a letter motion filed by defendants'
18 attorneys in opposition to Mr. Louis-Charles's motion to strike
19 his deposition and to stay any response to the Motion for
20 Summary Judgment.

21 I would note that annexed as an exhibit to that letter
22 response which was filed by the defendants at docket No. 60-1 is
23 the transcript of the deposition which was taken of
24 Mr. Louis-Charles, which is approximately 110 pages in length.

25 And docket No. 60-2 is an errata sheet which was

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1 prepared by Mr. Louis-Charles entitled, "Corrections to the
2 Deposition of Samuel Louis-Charles taken on August 18, 2017,"
3 which was sworn to by Mr. Louis-Charles on October 23 of 2017.

4 Docket No. 65 was a letter filed by Mr. Louis-Charles
5 inquiring regarding the status of his motion to strike his
6 deposition transcript and seeking a stay of the time by which he
7 needed to file a response to the pending Motion for Summary
8 Judgment.

9 Docket No. 67 is plaintiff's response to the Motion
10 for Summary Judgment which was previously filed by the
11 defendants, that motion being docket No. 50 on the Court's
12 docket.

13 Mr. Louis-Charles, sir, I'm going to give you a chance
14 to tell me anything else you'd like to tell me, sir, about your
15 request that I strike your deposition transcript.

16 MR. LOUIS-CHARLES: The defendants' lawyer never --

17 THE COURT: Mr. Louis-Charles, I can't hear you.

18 MR. LOUIS-CHARLES: You can hear me now?

19 THE COURT: That's better.

20 MR. LOUIS-CHARLES: The defendants' lawyers never gave
21 me an opportunity. I told her I didn't know nothing about the
22 laws about doing a deposition. I didn't know that I could have
23 told her that I wasn't in my right state of mind to not do it.
24 I told her how I was feeling when she first asked me to come in,
25 "How do I feel?"

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1 I told her, "I'm not in my right state of mind because
2 I'm still having side effects from the illegal intoxicant that I
3 inhaled."

4 THE COURT: Mr. Louis-Charles, sir, did you say
5 illegal intoxicant which you inhaled?

6 MR. LOUIS-CHARLES: Yeah, you know, for the facility
7 doctor from the facility guidelines. Yeah, for the facility.
8 So I don't know how to say it. It's illegal. It's not things
9 that you're supposed to have in the facility.

10 THE COURT: That's fine, Mr. Louis-Charles. I just
11 couldn't hear you. So I just asked you to clarify so my court
12 reporter, who is diligently taking down everything you say,
13 could diligently do that.

14 MR. LOUIS-CHARLES: Okay. Yeah. The intoxicant had
15 side effects like foggy eyes, my mind. I wasn't in my right
16 state of mind when I did the deposition.

17 THE COURT: Anything else you want to tell me,
18 Mr. Louis-Charles, sir?

19 MR. LOUIS-CHARLES: Yeah. I didn't know that because
20 I told the CO and I never had none of my legal work or anything.
21 I was in the SHU. So I wasn't in my right state of mind when I
22 did the deposition, but I didn't know that I could have denied
23 it, that I could have told them to reextend it. I didn't know
24 nothing about that. I didn't know the protocols of the
25 deposition. I thought I had no choice to do it.

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1 THE COURT: Then Mr. Louis-Charles, let me ask you a
2 question. At some point in time, did Ms. Bennett send you a
3 correction sheet so you could make any changes which you wished
4 to make to the transcript?

5 MR. LOUIS-CHARLES: Yes. I was in the box.

6 THE COURT: You were in the SHU at that time?

7 MR. LOUIS-CHARLES: I was in the SHU at that time. So
8 I didn't have anybody that could help me with the legal matters.
9 On that case, I would have then put down a motion to strike.
10 The guy that was assisting me with the case, he let me know.
11 He's like, "Yo, you should have just got this whole deposition
12 struck down." I was just writing down what I know. I didn't
13 remember half of the things that I was talking about. I was
14 expounding on things that I didn't even know what the hell I was
15 talking about.

16 THE COURT: To answer my question, Mr. Louis-Charles,
17 sir, more directly, at some point in time, Ms. Bennett sent to
18 you a correction sheet which you apparently filled out and swore
19 to on October 23 of 2017 and had your signature notarized. Did
20 you send that back to Ms. Bennett?

21 MR. LOUIS-CHARLES: Yes.

22 THE COURT: Anything else you'd like to tell me,
23 Mr. Louis-Charles, sir?

24 MR. LOUIS-CHARLES: I think my response to the Motion
25 for Summary Judgment is due. I don't know if you received that.

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1 THE COURT: We got your response to the Motion for
2 Summary Judgment, Mr. Louis-Charles, sir. Your response to the
3 Motion for Summary Judgment has been placed on the docket. It
4 was received on March 16, 2018, and it includes among other
5 things an affidavit, a memorandum of law, and certain exhibits
6 which you filed with respect to your motion -- your response.
7 Excuse me. So yes, we have received that, sir.

8 Ms. Bennett, what, if anything, would you like to tell
9 me?

10 MS. BENNETT: I think Your Honor is aware, as you
11 stated before, not only was Mr. Charles under the influence
12 allegedly of illegal contraband, he was under the influence
13 apparently two days before the actual deposition took place. He
14 hasn't addressed whether or which response suggests that he was
15 unable to participate in the deposition. In fact, he gave
16 answers to all of my questions without any difficulty
17 whatsoever.

18 And our motion is based upon his failure to exhaust
19 his administrative remedies, which he has admitted after the
20 fact. So once we sent him the notice to correct any answers, he
21 confirmed again that he did not exhaust his -- so to go back to
22 that, that was done two months later. So he could not possibly
23 have been under the influence of the same illegal substance 62
24 days after he consumed them.

25 And the fact that no one was there to help him in SHU

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1 does not excuse his failure to change his own answers to the
2 deposition. He knows what happened. Somebody else who was
3 helping him doesn't know what happened. So if his answers were
4 incorrect, he needed to write it down on that sheet. He made
5 seven changes to his deposition. That is all. He has not
6 addressed any other answer that he claims is incorrect.

7 So in my opinion, there is no reason to strike his
8 deposition transcript unless he can identify questions in which
9 there are incorrect answers, and then he could have and did have
10 the opportunity to make changes. He did not.

11 THE COURT: Mr. Louis-Charles, sir, I'll give you the
12 last word if you'd like, sir. Anything else you'd like to say?

13 MR. LOUIS-CHARLES: With this situation, the case
14 thing, all this documentation, everything, I understand how I'm
15 running, how the courts of the defendants work. I told Teresa
16 Bennett I wasn't in my right state of mind. I said that on the
17 record. I know I was still under the influence because I wrote
18 the Court and told you that two individuals almost died. It was
19 38 episodes in two days. It made the news and newspaper. I
20 still had side effects of the chemicals, and I still have side
21 effects to this day, which now I'm waiting to go see mental
22 health based on memory loss. So I don't know, sir. I
23 understand. I don't know what else to say.

24 THE COURT: Okay. You don't have to say anything
25 else, Mr. Louis-Charles, sir. I just wanted to give you another

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1 chance to speak if you wanted to because you're pro se, and I'm
2 trying to show special solicitude to you and give you an
3 opportunity to make sure the record is complete. So if there's
4 nothing else you'd like to say, sir, that's fine. I just wanted
5 to give you an opportunity to do so before I made my decision.

6 MR. LOUIS-CHARLES: Thank you.

7 THE COURT: The record should reflect that the Court
8 has had an opportunity to listen to Mr. Louis-Charles. The
9 Court also had an opportunity to listen to Ms. Bennett.

10 The Court has reviewed docket No. 57, which is
11 Mr. Louis-Charles's letter motion seeking to strike his
12 deposition and to stay his response to the Motion for Summary
13 Judgment, which was filed on February 16 of 2018.

14 I have further reviewed docket No. 60, which is the
15 letter motion -- excuse me, the letter response filed by the
16 defendants in opposition to the motion to strike the deposition
17 and in opposition to Mr. Louis-Charles's request for further
18 extension of time by which to respond to the Motion for Summary
19 Judgment.

20 The Court has further reviewed the entirety of the
21 transcript of Mr. Louis-Charles which was annexed as an exhibit
22 at docket No. 60-1 to the letter motion filed in opposition to
23 Mr. Louis-Charles's request by defense counsel.

24 I have further reviewed the correction sheet to the
25 deposition of Samuel Louis-Charles which was taken on August 18,

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1 2017, which was sworn to by Mr. Samuel Louis-Charles, the
2 plaintiff, on the 23rd day of October, 2017.

3 Based upon the Court's review of all of these
4 documents and the applicable case law, I'm going to deny
5 Mr. Louis-Charles's motion to strike the deposition for a number
6 of reason.

7 Number one, there's no indication to the Court that
8 Mr. Louis-Charles was in any way affected at the time of his
9 deposition by any intoxicant. The Court has reviewed in its
10 entirety the deposition of Mr. Louis-Charles and would note that
11 in each and every opportunity a question was presented to
12 Mr. Louis-Charles, he responded in a direct fashion. To the
13 extent that Mr. Louis-Charles did not understand any particular
14 question, on numerous occasions, he asked Ms. Bennett to clarify
15 her question, and she did so. There's no indication anywhere in
16 the transcript that Mr. Louis-Charles was in any way affected by
17 any illegal intoxicant which he may have taken two days prior to
18 his deposition.

19 The Court would further note that a correction sheet
20 was sent to Mr. Louis-Charles regarding his deposition.
21 Mr. Louis-Charles made a series of changes to that deposition
22 transcript and swore to those changes on October 23, 2017. The
23 Court would note that that is more than two months after
24 Mr. Louis-Charles's deposition was taken. The errata sheet
25 provided Mr. Louis-Charles a full and complete opportunity to

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1 make any corrections he needed to with respect to his
2 transcript, and beyond the seven which he made, he did not make
3 any additional changes.

4 The Court would further note that Mr. Louis-Charles
5 has not pointed to any particular question or answer in the
6 transcript which would indicate in any way that he was confused
7 or unable to participate fully and completely with his
8 deposition.

9 Mr. Louis-Charles has further objected to the fact
10 that Ms. Bennett did not advise him of the procedures by which
11 the deposition would be conducted and specifically did not
12 advise him of Rule 30(c)(2) of the Federal Rules of Civil
13 Procedure which governs objections. I would note that Rule
14 30(c)(2) sets forth the manner by which objections may be stated
15 on the record. There's no obligation on Ms. Bennett to explain
16 to Mr. Louis-Charles the manner by which he may make objections.
17 Nothing in the statute requires her to do that. The fact that
18 she may have chosen not to do that is not a basis upon which to
19 strike Mr. Louis-Charles's deposition.

20 Mr. Louis-Charles has also provided the Court with an
21 affidavit from what appears to be a fellow inmate named
22 Woodward, who has advised the Court of his observations
23 regarding Mr. Louis-Charles. I would note, number one, that the
24 purported affidavit is in fact not signed or sworn to by
25 Mr. Woodward, and as such, in fact is not an affidavit. There's

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1 also nothing in that affidavit which indicates in any way that
2 Mr. Woodward is in a position to comment on Mr. Louis-Charles's
3 current mental condition or his ability to participate in a
4 deposition. There's no indication that Mr. Woodward has had any
5 medical training or psychiatric training of any type.

6 Given all of that information, I'm going to deny
7 Mr. Louis-Charles's motion to strike his deposition, and I will
8 do an order reflecting that.

9 I am now going to proceed in the next couple of weeks
10 to render a written decision with respect to
11 Mr. Louis-Charles -- with respect to the pending Motion for
12 Summary Judgment which has been responded to by
13 Mr. Louis-Charles.

14 Mr. Louis-Charles, sir, I'm not going to strike your
15 deposition. I'm going to deny that motion. I'm going to do an
16 order reflecting that. I will in short order send you a
17 decision with respect to the Motion for Summary Judgment which
18 Ms. Bennett has filed. Do you understand that, sir?

19 Mr. Louis-Charles, sir, do you understand that?

20 MR. LOUIS-CHARLES: Yes.

21 THE COURT: Ms. Bennett, anything else I can do for
22 you?

23 MS. BENNETT: No. That's all. Thank you, Your Honor.

24 THE COURT: You folks have a nice day. Thank you.

25 (The matter adjourned at 2:18 p.m.)

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CERTIFICATION OF OFFICIAL REPORTER

I, JACQUELINE STROFFOLINO, RPR, Official Court Reporter,
in and for the United States District Court for the Northern
District of New York, do hereby certify that pursuant to Section
753, Title 28, United States Code, that the foregoing is a true
and correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the regulations of
the Judicial Conference of the United States.

Dated this 30th day of March, 2018.

/s/ JACQUELINE STROFFOLINO

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