

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MANFRED BERNIER,

Plaintiff,

-against-

9:17-CV-1376 (LEK/ATB)

THOMAS CARTER, *et al.*,

Defendants.

DECISION AND ORDER

In December 2017, pro se plaintiff Manfred Bernier commenced this Bivens¹ action. Dkt. No. 1. Plaintiff, who is confined at the Federal Correctional Institution in Berlin (“FCI Berlin”), did not pay the filing fee for this action and sought leave to proceed in forma pauperis (“IFP”). Dkt. No. 2. The Court granted Plaintiff’s IFP application and reviewed the Complaint under 28 U.S.C. § 1915. Dkt. No. 5. Based upon that review, the Court directed Defendants Lieutenant Thomas Carter, Correction Officer Lucas King, Correction Officer Dickson, Warden Stephen Langford, Health Services Administrator Kim Burdo, Deputy of Administration John Doe #1, and Captain of Security John Doe #2 to respond to Plaintiff’s Eighth Amendment claims. See id.

On August 17, 2018, the Clerk’s office issued a summons for service to be effectuated upon Dickson. Dkt. No. 9. On December 11, 2018, the Clerk’s office reissued a summons for service upon Dickson. Dkt. No. 11. On February 26, 2019, the summons was returned to the court unexecuted. Dkt. No. 15.

In a Decision and Order filed on May 1, 2020 (“May Order”), the Court addressed the

¹ Bivens v. Six Unknown Narcotics Agents, 403 U.S. 388 (1971).

service issue related to Dickson. Dkt. No. 44. The Court found “good cause” for Plaintiff’s failure to serve Dickson and extended the time period within which Plaintiff could serve him. Id. at 12. The Court afforded Plaintiff an additional ninety days to serve Dickson. Id. at 13.

On May 5, 2020, the Clerk’s office reissued a summons to Dickson. Dkt. No. 45. On May 27, 2020, the summons was returned to the Court unexecuted. Dkt. No. 48.

As of the date of this Order, Plaintiff has not complied with the May Order, nor has he communicated with the Court in any manner regarding service upon Defendant Dickson.

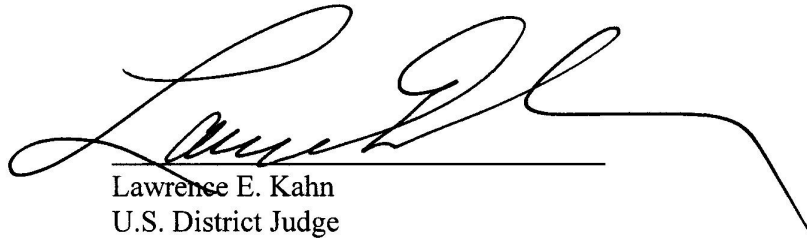
Accordingly, it is hereby:

ORDERED that the Complaint is **DISMISSED without prejudice** as against Dickson for failure to comply with the May Order; and it is further

ORDERED that the Clerk serve a copy of this Decision and Order on Plaintiff at his address of record.

IT IS SO ORDERED.

DATED: August 26, 2020
Albany, New York



Lawrence E. Kahn
U.S. District Judge