

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KEVIN GAMBLE,

Plaintiff,

v.

9:18-CV-1382  
(TJM/TWD)

CLINTON CORRECTIONAL FACILITY, et al.,

Defendants.

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APPEARANCES:

KEVIN GAMBLE

Plaintiff, pro se

1995 Adam Clayton Powell, Jr. Blvd

Apt 5E

New York, NY 10026

THOMAS J. MCAVOY

Senior United States District Judge

**DECISION and ORDER**

On July 6, 2018, pro se plaintiff Kevin Gamble ("Plaintiff") filed a civil rights Complaint and an application to proceed in forma pauperis in the United States District Court for the Eastern District of New York ("Eastern District"). Dkt. No. 1 ("Compl.") and Dkt. 2 ("IFP Application"). On November 29, 2018, United States District Kiyoo A. Matsumoto issued an Order transferring the action to the United States District Court for the Northern District of New York ("Northern District"). Dkt. No. 6 ("Transfer Order"). In the Transfer Order, Judge Matsumoto referred a decision on Plaintiff's IFP Application to the Northern District. *Id.* at 2.

At the time Plaintiff commenced this action, he was in the custody of the New York State Department of Corrections and Community Supervision ("DOCCS") at Franklin Correctional Facility. Compl. at 1. In a letter to the Court, Plaintiff notified the Clerk that he

expected to be released in September or October 2018 and provided a new address. Dkt. No. 5. A review of the DOCCS' website indicates that Plaintiff was released from DOCCS' custody on October 17, 2018.<sup>1</sup> To date, the Court has received no further correspondence from Plaintiff.

Accordingly, if Plaintiff wishes to proceed with this action, he must within thirty (30) days **either** (1) pay the filing fee of \$400.00 in full,<sup>2</sup> **or** (2) submit a signed IFP Application outlining his current financial condition and demonstrating economic need. Upon Plaintiff's timely compliance with this Decision and Order, the Clerk shall return the file to the Court for consideration of any IFP application and, if appropriate, review of the Complaint.<sup>3</sup> Plaintiff is advised that his failure to timely comply with this Decision and Order will result in the dismissal of this action without prejudice, without further order of the Court.

### **III. CONCLUSION**

**WHEREFORE**, it is hereby

**ORDERED** that, in the event Plaintiff wishes to proceed with this action he must, **within THIRTY (30) DAYS** of the filing date of this Decision and Order, **either** (1) pay the statutory filing fee of \$400.00 in full **or** (2) submit an IFP Application outlining his current financial condition and demonstrating economic need; and it is further

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<sup>1</sup> See N.Y. DOCCS Inmate Locator Website, available at <http://www.doccs.ny.gov/> (information for inmate Kevin Gamble, DIN #17A4640) (last visited Dec. 6, 2018).

<sup>2</sup> The total cost for filing a civil action in this court is \$400.00 (consisting of the civil filing fee of \$350.00, see 28 U.S.C. § 1914(a), and an administrative fee of \$50.00).

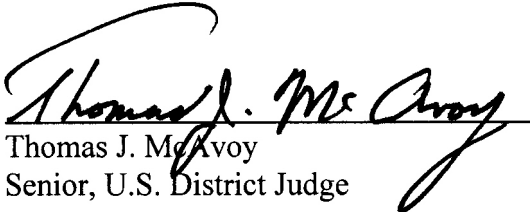
<sup>3</sup> Until such time as Plaintiff either pays the full filing fee, or otherwise complies with this Decision and Order, review of the Complaint would be premature. Upon compliance, the Complaint will be subject to review under 28 U.S.C. § 1915(e) and/or 28 U.S.C. § 1915A.

**ORDERED** that, upon Plaintiff's timely compliance with this Decision and Order, the Clerk shall return the file to the Court for further review; and it is further

**ORDERED** that, if Plaintiff does not timely comply with this Decision and Order, the Clerk shall enter judgment indicating that this action is **DISMISSED without prejudice without further order of this Court**; and it is further

**ORDERED** that the Clerk shall serve a copy of this Decision and Order on Plaintiff, together with a blank Application to Proceed In Forma Pauperis and a courtesy copy of the Complaint (Dkt. No. 1).

Dated: December 10, 2018

  
Thomas J. McAvoy  
Senior, U.S. District Judge