

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JULIAN CEPEDA,

Plaintiff,

v.

9:19-CV-0204
(TJM/DEP)

CRAIG D. APPLE, SR., et al.,

Defendants.

APPEARANCES:

JULIAN CEPEDA
19-A-0668

Last Known Address

Downstate Correctional Facility
Box F
Fishkill, NY 12524

THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

Pro se plaintiff Julian Cepeda commenced this civil rights action in February, 2019. Dkt. No. 1 ("Compl.") at 8. On or about February 25, 2019, plaintiff submitted a notice of change of address notifying the Court that his place of incarceration was Downstate Correctional Facility. Dkt. No. 4.

On March 7, 2019, this Court issued a Decision and Order, which, among other things, found that certain of plaintiff's claims survived sua sponte review pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b). Dkt. No. 5 ("March 2019 Order"). The March 2019

Order directed the Clerk to serve a copy of the order on plaintiff and the Albany County Attorney's Office, which was asked to attempt to ascertain the full names of the defendants identified in the complaint as John Doe #1, John Doe #2, John Doe #3, and John Doe #4. *Id.* at 13-14.

Service of the March 2019 Order addressed to plaintiff at Downstate Correctional Facility (his address of record) was returned to the Clerk on March 18, 2019, marked as undeliverable to plaintiff at that address. Dkt. No. 6 at 1. The envelope bears the handwritten notation "Released," and is stamped "No Longer Here." *Id.*¹

On April 4, 2019, the Court issued an Order advising plaintiff that he must file a change of address within thirty days, and continue to submit any address changes to the Court as long as his action is pending, and that his failure to "notify the Court of a change of address in accordance with L.R. 10.1(c)(2) may result in the dismissal of any pending action." Dkt. No. 9 (quoting N.D.N.Y. L.R. 41.2(b)).

More than thirty days has passed since the Court's issuance of the April 4, 2019 Order, and plaintiff has yet to comply with that order, or communicate with the Court in any other manner regarding this action.

WHEREFORE, it is hereby

ORDERED that this action is **DISMISSED without prejudice** due to plaintiff's failure to inform the Court of any address changes in writing in accordance with N.D.N.Y.L.R. 10.1(c)(2) and comply with the April 4, 2019 Order, and the Clerk is directed to enter

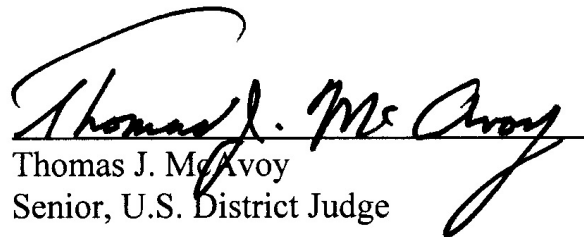
¹ According to the public website maintained by the New York Department of Corrections and Community Supervision ("DOCCS"), plaintiff was released from DOCCS custody on March 12, 2019. See <http://nysdoccslookup.doccs.ny.gov> (last visited May 29, 2019).

judgment accordingly; 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: May 30, 2019


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