UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADRIAN LUKE SINCLAIR,

Plaintiff,

v.

CITY OF NEW YORK, ET AL.,

Defendants.

03 Civ. 6694 (BSJ)

Order

BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Plaintiff commenced the above-captioned litigation on September 4, 2003 and filed an Amended Complaint on December 11, 2003. Based on the docket sheet, it appears that summonses were issued on May 4, 2004 and then never served on Defendants.[1]

On November 10, 2008 the Court issued an order (the "November 10, 2008 Order") directing Plaintiff to inform the Court if the summonses actually were served. If they were not, Plaintiff was directed to advise the Court as to whether he has good cause for the delay in service. The Court warned that if Plaintiff failed to so advise the Court, the court would dismiss his case pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve the summonses in a timely fashion. The Court mailed a copy of this Order to Plaintiff at the Mohawk Correctional Facility (his last known address). This letter was

[1] Plaintiff's last communication with the Court was a notice of change of address filed on March 16, 2004.

returned to the Court as undeliverable by the U.S. Postal Service.

Following the issuance of the November 10, 2008 Order, the Court was informed by the Pro Se Office that Plaintiff had been released from prison provided the Court with a new address for Plaintiff. As a result, the Court issued an order on December 30, 2008 again directing Plaintiff to inform the Court as to whether he had ever served Defendants. Plaintiff was directed to so inform the Court by January 30, 2009 and was warned that should he fail to do so the Court would dismiss his case pursuant to Rule 4(m). Shortly after mailing a copy of this order to Plaintiff at his new address, the Court received confirmation of its receipt in the form of a signed "return receipt."

To date, Plaintiff has not contacted the Court. Accordingly, the Court now dismisses Plaintiff's case for failure to serve Defendants within the 120 day time period prescribed by Federal Rule of Civil Procedure 4(m).

CONCLUSION

For the reasons stated above, Plaintiff's Amended Complaint is hereby DISMISSED without prejudice and the Clerk of the Court is directed to close the case.

SO ORDERED:

Barbara S. Jones
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
April 7, 2009