

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 2/1/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 ROY TAYLOR, :
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 Plaintiff, :
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 -v- :
 :
 NYPD OFFICER ALYSSA TRIGENO, :
 NYPD SGT. MICHAEL DUNLAVEY, :
 RIKERS C.O. QUAYYUM, and CITY OF :
 NEW YORK, :
 :
 Defendants. :
 :
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1:16-cv-01143-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

Plaintiff has filed a motion to vacate the Court’s December 9, 2022 order, which denied Plaintiff’s request for the entry of default judgment against Defendants. *See* Dkt. No. 276 (the “Order”); Dkt. No. 277 (the “Motion”). In the Order, the Court rejected Plaintiff’s argument that Defendants had “defaulted” because Defendants had not filed a reply in support of a motion to dismiss by the November 18, 2022 deadline. As the Court noted in its Order, the City Defendant¹ timely filed a reply in support of its motion to dismiss on November 18, 2022.

In the Motion, Plaintiff asserts again that he has not received a reply brief from Defendants, and Plaintiff further asserts that *ex parte* communications have taken place between the Court and Defendants. Contrary to Plaintiff’s assertions that *ex parte* communications have taken place between the Court and the City Defendant, the Court received the City Defendant’s reply because the reply was publicly filed on the docket of this case. *See* Dkt. No. 274. The City Defendant also

¹ The City Defendant filed the motion to dismiss at issue. *See* Dkt. No. 265. As such, the Court construes Plaintiff’s request for default judgment against “Defendants”, due to an alleged failure to timely file a reply in support of the motion to dismiss, to apply only to the City Defendant.


publicly filed a declaration of service stating that the reply had been mailed to Plaintiff on the docket of this case. *Id.* at 8. It appears that Plaintiff still had not received the reply as of December 24, 2022, the date that appears on Plaintiff's Motion. Nonetheless, because the City Defendant filed its reply by the November 18, 2022 deadline and represented that the reply was served on Plaintiff, the Court again declines to enter default judgment against the City Defendant. Accordingly, Plaintiff's motion to vacate the December 9, 2022 order is denied.

Because Plaintiff represents that he has not received the reply, the City Defendant is directed to again serve its reply and the eight unpublished decisions referenced in the reply upon Plaintiff, and to file proof of service by no later than February 8, 2023.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 277 and to mail a copy of this order by first-class mail to the plaintiff.

SO ORDERED.

Dated: February 1, 2023
New York, New York



GREGORY H. WOODS
United States District Judge