

WHEREAS, on January 8, 2020, the Hunts Points Terminal Market Defendants filed a status letter indicating that Plaintiff's appeal of his criminal conviction has been adjourned to the March 2021 term. Dkt. No. 142.

WHEREAS, “[w]hen a magistrate judge enters a non-dispositive order like a discovery order, and a party objects, a district court ‘shall modify or set aside any portion of the magistrate judge’s order found to be clearly erroneous or contrary to law.’” *Shim-Larkin v. City of New York*, No. 16 Civ. 6099, 2020 WL 5758751, at *1 (S.D.N.Y. Sept. 28, 2020) (citing Fed. R. Civ. P. 72 (a)).

WHEREAS, a plaintiff who seeks to bring a false arrest claim “must pursue the criminal case to an acquittal or an unqualified dismissal, or else waive his section 1983 claim,” *Roesch v. Otarola*, 980 F.2d 850, 853 (2d Cir. 1992); accord *Charles v. Johnson*, No. 13 Civ. 218, 2015 WL 4509405, at * 3 (D. Conn. July 24, 2015), because “[a] claim arising from [an] allegedly false arrest will be barred if plaintiff is convicted of the crime for which he was arrested,” *Cameron v. Wise*, No. 09 Civ. 967, 2009 WL 3755093, at *3 (S.D.N.Y. Nov. 2, 2009); see also *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) (explaining that “a §1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of *habeas corpus*[]”); accord *Wilson v. City of New York*, No. 20 Civ. 4178, 2020 WL 4606423, at *4 (S.D.N.Y. Aug. 10, 2020).

WHEREAS, “[i]f a plaintiff files a false-arrest claim before he has been convicted (or files any other claim related to rulings that will likely be made in a pending or anticipated criminal trial), it is within the power of the district court, and in accord with common practice, to stay the civil action until the criminal case or the likelihood of a criminal case is ended.” *Wallace v. Kato*, 549 U.S. 384, 393-94 (2007); accord *Stegemann v. Rensselaer Cty. Sheriff’s*

Office, 648 Fed. App'x. 73, 78 (2d Cir. 2016) (summary order) (recommending the district court hold a § 1983 action in abeyance until the completion of a related criminal action).

WHEREAS, Mr. Razzoli has not identified any constitutional rights violated by the Stay.

WHEREAS, the Sixth Amendment right to a speedy trial does not apply to civil cases. See *Turner v. Rogers*, 564 U.S. 431, 441 (2011); accord *Azeez v. City of New York*, 2018 WL 4017580, at *13 (E.D.N.Y. Aug. 22, 2018) (“[T]he Sixth Amendment by its text only applies to criminal prosecutions.”) (internal citations and quotation marks omitted).

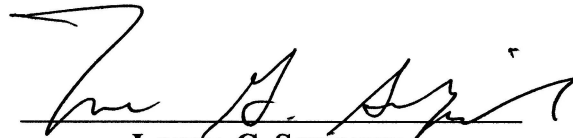
WHEREAS, for all of these reasons the December 15, 2020, Order (Dkt. No. 136) is not clearly erroneous. It is hereby

ORDERED, that Plaintiff’s objection to the December 15, 2020 Order is overruled.

Because Plaintiff’s underlying criminal case has yet to be resolved and the Stay does not violate Plaintiff’s constitutional rights, it is premature to lift the Stay. It is further

ORDERED, that by January 15, 2021, Defendants shall serve a copy of this Order on pro se Plaintiff.

Dated: January 11, 2021
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE