

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Tyrel Henderson,

Plaintiff,

—v—

Police Officer Alvarez, *et al.*,

Defendants.

NOV 21 2019

17-cv-3977 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On November 12, 2019, Defendant Alvarez filed a motion to dismiss the complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. However, since Plaintiff is proceeding *pro se*, he shall be given additional time to amend the complaint. Accordingly, it is hereby ORDERED that if Plaintiff intends to file an amended complaint, he shall do so by December 14, 2019. Plaintiff is hereby advised that any amended complaint will completely replace the original complaint. Accordingly, if Plaintiff files an amended complaint, it should include all of the information he believes is necessary to make a short, plain statement explaining why he is entitled to relief against each defendant. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendant Alvarez's November 12, 2019 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility.").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they intend to rely on the initially-filed motion to dismiss.

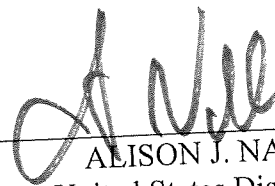
IT IS FURTHER ORDERED that if no amended complaint is filed, Plaintiff shall serve his opposition to Defendants' motion to dismiss by December 14, 2019. Defendants' reply, if any, shall be served by December 31, 2019. At the time any reply is served, Defendants shall supply Chambers with a courtesy copy of all motion papers by mailing or delivering them to the United States Courthouse, 40 Foley Square, New York, New York.

IT IS FURTHER ORDERED that either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

Chambers will mail a copy of this Order to Plaintiff and that mailing will be noted on the docket.

SO ORDERED.

Dated: November 21, 2019
New York, New York



ALISON J. NATHAN
United States District Judge