

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 4/27/2021
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DAMOND BAILEY,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, NEW YORK CITY POLICE
OFFICERS JOHN DOES NUMBERS 1-6, and NEW
YORK CITY POLICE OFFICERS JANE DOES 1-6,
individually and in their official capacities,

Defendants.

1:19-cv-01488-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court held a status conference in this matter on April 27, 2021. Plaintiff, an adult who is proceeding *pro se*, appeared personally accompanied by Ms. Tiasha Jenkins, his mother. Counsel for Defendants also appeared. Prior to the hearing, the Court received an e-mail from Ms. Jenkins advising that she was unable to retain counsel to represent her son. [ECF No. 53.]

At the hearing, the Court explained that it would not proceed with a hearing on Plaintiff's competency and the appointment of Ms. Jenkins as a guardian ad litem since it would be futile given the inability to retain counsel. The Court further explained that Plaintiff may continue to prosecute the action *pro se* if he desires to do so. During the hearing, Plaintiff expressed a desire to discontinue the action, but he and his mother expressed a desire to discuss the matter further.

In accordance with matters discussed on the record at the conference, IT IS HEREBY ORDERED that:

- The April 21 e-mail from Plaintiff's mother to the Court advising that no counsel has been retained by Plaintiff shall be filed on the docket in this case. The attachments that discuss Plaintiff's health issues and academic records will be filed under seal. All future correspondence with the Court will be filed on the docket in this case.

- Defendants' motion to dismiss for failure to prosecute [ECF No. 42] is DENIED without prejudice.
- On or before **May 12, 2021**, Plaintiff shall file a letter physically and personally signed by Plaintiff advising the Court whether Plaintiff will continue to prosecute this action *pro se* or whether Plaintiff is discontinuing this action and voluntarily dismissing the case.
- In the event Plaintiff elects to move forward with this action, the Court GRANTS Defendants leave to renew their motion for summary judgment. The briefing schedule for Defendants' motion is as follows:
 - Defendants' motion due on or before **May 27, 2021**;
 - Plaintiff's opposition due on or before **June 28, 2021**;
 - Defendants' reply due on or before **July 13, 2021**.

Failure by Plaintiff to file an opposition to Defendants' motion may result in the Court treating the record as closed and ruling on the motion as filed. The parties shall consult the Court's Individual Practice Rules and ensure compliance therewith.

The Clerk of Court is respectfully requested to terminate docket entry 42 and mail a copy of this Order to the *pro se* Plaintiff at the address of record.

SO ORDERED.

**Date: April 27, 2021
New York, NY**


**MARY KAY VYSKOČIL
United States District Judge**