

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

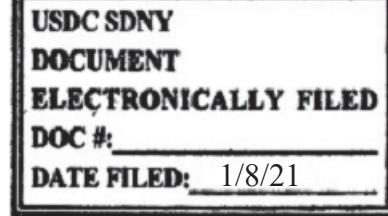
ABRAHAM CRUZ,

Plaintiff,

-against-

FEDERAL AT I.C.M. MANHATTAN, N.Y.,
et al.,

Defendants.



20-CV-4392 (VEC) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Plaintiff Abraham Cruz, who is now incarcerated in Pennsylvania, sought to pursue claims against unnamed officials at the "I.C. Metro Manhattan," including the "Director" and a "Psychiatrist," and against a fellow prisoner, identified only as "Mr. Mannanlei." Am. Compl. (Dkt. No. 17) at 3. There is no such federal facility in Manhattan. Reasoning that plaintiff may have intended to identify the Metropolitan Correctional Center (MCC), the District Judge directed the United States Attorney for the Southern District of New York, as attorney and agent for the Bureau of Prisons (BOP), to identify the Warden of the MCC, the MCC psychiatrist to whom plaintiff complained about an assault by a fellow prisoner, and the prisoner who was plaintiff's cellmate in cell 6C-4 at the MCC while plaintiff was incarcerated there between 2011 and 2012. (Dkt. No. 23 at 4.)

By letter dated November 30, 2020 (Dkt. No. 27), the United States Attorney reported that the BOP was unable to locate any record of plaintiff, or an inmate named Mannanlei, at the MCC. Nor, according to the United States Attorney, does the MCC contain a cell 6C-4. *Id.* at 1. The November 20 letter did identify Suzanne Hastings as the MCC Warden during the relevant period. *Id.* at 2.

By order dated December 1, 2020 (Dkt No. 28), the Court directed plaintiff to provide additional information, sufficient to identify the facility in which he was housed in 2011-12.

On December 29, 2020, plaintiff filed a Second Amended Complaint (SAC) (Dkt. No. 31) naming Warden Hastings as a defendant, along with registered nurse Maria Manning, shield # 51673, and describing, as additional unnamed defendants, the "psychiatrist," "Mr. Mannanlein," and three otherwise unidentified "officers." SAC at 3. Plaintiff further specifies that the incidents of which he complains occurred at the "Metropolitan Correctional Center"; that he was housed on the "6th fl. – C – 2d cell on left (last)"; that he arrived at the MCC on October 3, 2012; that the first incident of which he complains occurred on October 7, 2012; and that the second incident occurred on "Sun. 14/10/12 approx.," which the Court construes as a reference to October 14, 2012, approximately. *Id.* at 4. Although the sequence of events described in the Second Amended Complaint is not entirely clear, plaintiff appears to allege that he was injured in an assault by Mannanlei and that he was deprived of adequate medical attention. *Id.* at 4-5. Plaintiff also alleges that the MCC psychiatrist performed an "incomplete" evaluation, causing him to be transferred to another federal facility and found incompetent. *Id.* at 4.

On January 7, 2021, the Court received a letter from plaintiff (Dkt. No. 33) which, while not entirely comprehensible, reiterated that he was held at the MCC, and described his cell as on the "6th fl. 4th cell from the steps on C, the left side as one goes in, the bubble on the right." Plaintiff's letter also referenced certain other litigation in which he was a party. Based on that information, the Court was able to locate a letter from Warden Hastings to the Hon. Christopher C. Connor, dated October 12, 2012, stating, in relevant part, that plaintiff Cruz "was designated at the Metropolitan Correctional Center, New York, New York, on October 3, 2012." See *United States v. Cruz*, No. 11-CR-242 (M.D. Pa. Oct. 12, 2012), ECF No. 89. The Court further notes that the envelope in which Warden Hasting's letter was apparently sent to Judge Connor lists the

sender as William J. Ryan, Ph.D., Psychology Department, Metropolitan Correctional Center. It thus appears that plaintiff was in fact housed at the MCC, at least in late 2012, and that he may have been treated and/or evaluated by Dr. Ryan.

Within 30 days of the date of this Order, the United States Attorney, as attorney and agent for the BOP, shall identify (1) the MCC psychiatrist or psychologist to whom plaintiff complained about an assault by a fellow prisoner; (2) the MCC psychiatrist or psychologist who treated or evaluated plaintiff while at the MCC, if different; and (3) the prisoner who was plaintiff's cellmate at the MCC in 2012, whose last name may or may not be some variant of "Mannanlei." The United States Attorney shall also verify the identity of the defendant described as nurse Maria Manning, shield # 51673, and shall provide the addresses, if known, where these defendants may be served. *See Valentin v. Dinkins*, 121 F.2d 72, 76 (2d Cir. 1997) (a *pro se* litigant is entitled to the assistance of the district court in identifying an unidentified defendant).

Within 30 days of his receipt of the information set forth above, plaintiff may file a Third Amended Complaint. The Third Amended Complaint will replace, not supplement, the original and amended complaints. A Third Amended Complaint form that plaintiff may use is attached to this order. Once Plaintiff has filed a Third Amended Complaint, the Court will screen it and, if necessary, issue an order directing service on the newly identified defendants.

To the extent plaintiff's most recent letter requests additional relief, including but not limited to the reopening of cases in other districts, such relief is DENIED.

The Clerk of Court is directed to mail a copy of this order to plaintiff.

Dated: New York, New York
January 8, 2021

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

No. _____
(To be filled out by Clerk's Office)

-against-

THIRD AMENDED
COMPLAINT
(Prisoner)

Do you want a jury trial?

Yes No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a *"Bivens"* action (against federal defendants).

Violation of my federal constitutional rights

Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name

Middle Initial

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City

State

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

Pretrial detainee

Civilly committed detainee

Immigration detainee

Convicted and sentenced prisoner

Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

| First Name | Last Name | Shield # |
|--|-----------|----------|
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 2:

| First Name | Last Name | Shield # |
|--|-----------|----------|
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 3:

| First Name | Last Name | Shield # |
|--|-----------|----------|
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 4:

| First Name | Last Name | Shield # |
|--|-----------|----------|
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

V. STATEMENT OF CLAIM

Place(s) of occurrence:

Date(s) of occurrence:

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated

Plaintiff's Signature

First Name

Middle Initial

Last Name

Prison Address

County, City

State

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____