

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES JACKSON,

Plaintiff,

-against-

DEPARTMENT OF CORRECTIONS;
CYNTHIA BRANN; PATSY YANG;
MARGARET EGAN,

Defendants.

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

20-CV-9420 (VSB)

ORDERVERNON S. BRODERICK, United States District Judge:

Plaintiff James Jackson (“Plaintiff”), currently detained at the Vernon C. Bain Center (“VCBC”), brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants are violating his federal constitutional rights by not protecting him from contracting COVID-19. Plaintiff originally filed this action with 49 other VCBC detainees on October 7, 2020. (See Docs. 1, 2.) On November 9, 2020, Magistrate Judge Stewart Aaron severed the plaintiffs’ claims and directed that each plaintiff’s claims be opened as a separate action. *See Lee v. Brann*, ECF 1:20-CV-8407, 7 (GBD) (SDA) (S.D.N.Y.). On November 24, 2020, Lee filed an amended complaint in *Lee v. Brann*, which Plaintiff signed. (No. 1:20-CV-8407, Doc. 14.) At Judge Aaron’s direction, the amended complaint was docketed in each of the severed actions, including the instant action. (Doc. 4; *see* No. 1:20-CV-8407, Doc. 19.)

On February 17, 2021, Chief Judge Colleen McMahon granted Plaintiff’s request to proceed in forma pauperis (“IFP”). (Doc. 10.) By order dated March 22, 2021, I noted that the amended complaint does not specify how Defendants specifically violated any of Plaintiff’s constitutional rights. (Doc. 12, at 2.) Accordingly, I granted Plaintiff leave to file a second amended complaint within sixty days, that is, by on or before April 23, 2021. (*Id.* at 7.) I

warned that if Plaintiff failed to file a second amended complaint during that time period, and did not show good cause excusing such failure, the complaint would be dismissed for failure to state a claim upon which relief may be granted. (*Id.*) To date, Plaintiff has neither filed a second amendment complaint nor supplied any explanation for his failure to do so by the April 23, 2021 deadline.

Accordingly, Plaintiff is directed to file a second amended complaint by on or before May 24, 2021. If Plaintiff fails to file a second amended complaint by this date and does not show good cause excusing such failure, Plaintiff's complaint will be dismissed for failure to state a claim upon which relief may be granted. *See Thomas v. Scully*, 943 F.2d 259, 260 (2d Cir. 1991) (a "court on its own initiative may note the inadequacy of the complaint and dismiss it for failure to state a claim as long as the procedure employed is fair") (internal quotation marks omitted).

SO ORDERED.

Dated: April 27, 2021
New York, New York



Vernon S. Broderick
United States District Judge