

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GABRIEL FLORES,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5/6/2022

1:21-CV-1680 (PGG) (KHP)

ORDER

**KATHARINE H. PARKER, UNITED STATES MAGISTRATE JUDGE**

On March 22, 2021, the Honorable Ronnie Abrams issued an Order of Service requesting the City of New York and the individual Defendants, to waive service of the summons in this action by April 21, 2021 as Plaintiff has been granted permission to proceed *in forma pauperis*. (ECF No. 6.) On April 21, 2021, the New York City Law Department informed the Court that it “advised its client, New York City Department of Correction [ ], not to waive service on behalf of [the individual] defendants at this time, until after judicial review of the claims in the Complaint.” (ECF No. 8.) On August 3, 2021, this Court denied Defendant’s request for review and set a briefing schedule for Defendant’s motion to dismiss. (ECF No. 23.) While acknowledging the individual Defendants have yet to be served in this action in its motion to dismiss, counsel for the City of New York requests that the Court *sua sponte* dismiss the claims asserted against the individual Defendants. (ECF No. 36.) The Court declines to do so.

Accordingly, as the City of New York has not yet waived service for the individual Defendants as requested by Judge Abrams and service has not been otherwise effected, **by May 20, 2022**, the City of New York shall either file a waiver of service or otherwise advise the Court of its position. Upon the completion of service and appearance of counsel for the

individual Defendants, the City of New York shall also advise the Court by letter whether those Defendants seek to join the pending motion to dismiss. Any motion joining Defendants shall be filed within 30 days of this Order.

**The Clerk of Court is requested to mail a copy of this order to the plaintiff.**

Dated: May 6, 2022  
New York, New York

**SO ORDERED.**



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**KATHARINE H. PARKER**  
**United States Magistrate Judge**