UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UMAR ALLI,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

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21-CV-04767 (PGG)(SN)

ORDER

SARAH NETBURN, United States Magistrate Judge:

On November 15, 2021, the Court held a telephonic conference to discuss Plaintiff's allegations of retaliation and his request for a temporary restraining order ("TRO") to prevent against future acts of retaliation or violence by correction officers. See ECF Nos. 28, 30. Plaintiff's motion for a TRO is DENIED because he has not demonstrated "(1) irreparable harm in the absence of the injunction and (2) either (a) a likelihood of success on the merits or (b) sufficiently serious questions going to the merits to make them a fair grounds for litigation and a balance of hardships tipping decidedly in" Plaintiff's favor. MyWebGrocer, L.L.C. v. Hometown Info., Inc., 375 F.3d 190, 192 (2d Cir. 2004). During the proceeding, Plaintiff stated that if a TRO was not granted, he was likely to assault a correction officer preemptively to prevent a future attack. Plaintiff is warned that if he assaults an officer, in addition to possible sanctions in this case, including dismissal of his claims, he may face criminal prosecution. The Assistant Corporation Counsel is directed to notify a DOC supervising officer of Plaintiff's threat.

In a letter dated November 2, 2021, and received by the Court on November 9, 2021, Plaintiff wrote that "a separate matter will be filed for the retaliation and other claims from

G.R.V.C." ECF No. 30. A complaint dated November 4, 2021, and received by the Court on November 9, 2021, was filed in this action and designated by the Clerk's Office as an Amended Complaint. ECF No. 29. As confirmed during the conference, this complaint is not an amended pleading in this case and should be filed in a new civil action.

Finally, the Assistant Corporation Counsel has advised the Court that Defendant Officer Davis's military leave expires on November 26, 2021, when he will return to work. Defendants are granted until December 27, 2021, to answer or otherwise respond to Plaintiff's complaint. In addition, the Defendant's shall respond to the Court's Valentin Order, ECF No. 7, by no later than December 27, 2021.

CONCLUSION

The Clerk of Court is directed to strike the Amended Complaint at ECF No. 29, reverse any actions taken with respect to parties as a result of that improper filing, and file the complaint in a new action. In light of the expiration of Officer Davis's military leave, the case is no longer stayed. The Clerk of Court is respectfully directed to mail a copy of this order to the *pro se* Plaintiff.

SO ORDERED.

SARAH NETBURN
United States Magistrate Judge

DATED: New York, New York
November 15, 2021