

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAMZIDDIN TROWELL,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

24-CV-1771 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who currently is incarcerated at Sing Sing Correctional Facility, filed this matter *pro se*. For the reasons discussed below, within 30 days of the date of this order, Plaintiff must submit (1) a completed signed amended complaint, and (2) either pay the \$405.00 in fees – a \$350.00 filing fee plus a \$55.00 administrative fee – that are required to file a civil action in this court or, to request authorization to proceed *in forma pauperis* (“IFP”), submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915.

On March 5, 2024, the court received from Plaintiff a packet of papers, which includes documents for three different cases, and the following: (1) an unsigned five-page statement that was labeled as a complaint, but neither contains a caption nor names any defendants; (2) an application for the court to request *pro bono* counsel; (3) a change of address form; (4) a motion without a docket number in which Plaintiff requests an investigation of unidentified defendants; and (5) a motion purportedly in opposition to unidentified defendants’ motion to waive summons and complaint, again without a docket number. Both Plaintiff’s motion and opposition papers reference his recently dismissed case, *Trowell v. Fledar*, No. 23-CV-9507 (LTS) (S.D.N.Y. Jan. 8, 2024), and his two pending cases in this court, *Trowell v. Ellis*, No. 23-CV-9832 (JGLC), and *Trowell v. Whitefield*, No. 23-CV-9789 (DEH) (BCM). The Clerk’s Office opened Plaintiff’s

five-page statement as a complaint against the City of New York and assigned it docket number 24-CV-1771. (ECF 1.) Because Plaintiff did not provide specific docket numbers for his other submissions, the Clerk's Office also docketed in the new action Plaintiff's application for *pro bono* counsel, change of address form, motion for an investigation, and opposition papers to the alleged motion for waiver of summons and complaint. (ECF 2-5.)

After reviewing the five-page statement and other submissions, it is unclear whether Plaintiff intended to file a new civil action in this court. In the five-page statement, Plaintiff largely reiterates allegations from the three actions he previously filed, and his references to those cases in the motion and opposition papers suggest that he may have been attempting to file his submissions in those cases. Furthermore, unlike his prior cases, which were submitted with IFP applications and prisoner authorizations, Plaintiff did not submit the papers as a new civil action with an IFP application and prisoner authorization.

If Plaintiff intends to file a new civil action in this court, the Court directs him to submit an amended complaint with an original signature to the court within 30 days of the date of this order.¹ If Plaintiff submits the amended complaint, it should be labeled with docket number 24-CV-1771 (LTS), and be fully completed with the names of the defendants and a statement of his claims.² If Plaintiff wishes to file any document in his other pending cases, he must submit such

¹ Rule 11(a) of the Federal Rules of Civil Procedure states that “[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney’s name – or by a party personally if the party is unrepresented.” Fed. R. Civ. P. 11(a); *see* Local Civil Rule 11.1(a). The Supreme Court of the United States has interpreted Rule 11(a) to require “as it did in John Hancock’s day, a name handwritten (or a mark handplaced).” *Becker v. Montgomery*, 532 U.S. 757, 764 (2001).

² Rule 8(a) of the Federal Rules of Civil Procedure provides that a complaint contain “(1) a short and plain statement of the grounds for the court’s jurisdiction . . . ; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for

papers to the court with the name of the defendant(s) and the docket number of the appropriate case clearly listed in the caption of each document.³

Furthermore, if Plaintiff intends to proceed with a new civil action he must pay the \$405.00 filing fees or submit a completed and signed IFP application and prisoner authorization.⁴ If Plaintiff submits the IFP application and prisoner authorization, they should be labeled with docket number 24-CV-1771 (LTS).⁵

CONCLUSION

The Court grants Plaintiff leave to submit, within 30 days, a signed and completed amended complaint. Plaintiff must also either pay the \$405.00 in fees or submit a completed and signed IFP application and prisoner authorization within that period of time. No summonses shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

the relief sought, which may include relief in the alternative or different types of relief.” Fed. R. Civ. P. 8(a).

³ The caption is located on the front page of any submission to the court.

⁴ If the Court grants a prisoner's IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner's account. *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must therefore authorize the Court to withdraw these payments from his account by filing a “prisoner authorization,” which directs the facility where the prisoner is incarcerated to deduct the \$350.00 filing fee from the prisoner's account in installments and to send to the Court certified copies of the prisoner's account statements for the past six months. *See* § 1915(a)(2), (b).

⁵ Plaintiff is cautioned that if a prisoner files a federal civil action or appeal that is dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, the dismissal is a “strike” under 28 U.S.C. § 1915(g). A prisoner who receives three “strikes” cannot file federal civil actions IFP as a prisoner, unless he is under imminent danger of serious physical injury, and he must pay the filing fees at the time of filing any new action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: March 25, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

____ CV _____
(Include case number if one has been assigned)

-against-

**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
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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
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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

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: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff or petitioner applying (each person must submit a separate application))

-against-

CV _____ () ()

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (IFP) (without prepaying fees or costs), I declare that the responses below are true:

1. *Are you incarcerated?* Yes No (If "No," go to Question 2.)

I am being held at: _____

Do you receive any payment from this institution? Yes No

Monthly amount: _____

If I am a prisoner, *see* 28 U.S.C. § 1915(h), I have attached to this document a "Prisoner Authorization" directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. *Are you presently employed?* Yes No

If "yes," my employer's name and address are:

Gross monthly pay or wages: _____

If "no," what was your last date of employment? _____

Gross monthly wages at the time: _____

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

- (a) Business, profession, or other self-employment Yes No
(b) Rent payments, interest, or dividends Yes No

- (c) Pension, annuity, or life insurance payments Yes No
- (d) Disability or worker's compensation payments Yes No
- (e) Gifts or inheritances Yes No
- (f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.) Yes No
- (g) Any other sources Yes No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?

5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:

6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:

7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):

8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

Declaration: I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

Dated	Signature		
Name (Last, First, MI)	Prison Identification # (if incarcerated)		
Address	City	State	Zip Code
Telephone Number	E-mail Address (if available)		

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff/petitioner)

-against-

CV _____ () ()

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

PRISONER AUTHORIZATION

By signing below, I acknowledge that:

- (1) because I filed this action as a prisoner,¹ I am required by statute (28 U.S.C. § 1915) to pay the full filing fees for this case, even if I am granted the right to proceed *in forma pauperis* (IFP), that is, without prepayment of fees;
- (2) the full \$350 filing fee will be deducted in installments from my prison account, even if my case is dismissed or I voluntarily withdraw it.

I authorize the agency holding me in custody to:

- (1) send a certified copy of my prison trust fund account statement for the past six months (from my current institution or any institution in which I was incarcerated during the past six months);
- (2) calculate the amounts specified by 28 U.S.C. § 1915(b), deduct those amounts from my prison trust fund, and disburse those amounts to the Court.

This authorization applies to any agency into whose custody I may be transferred and to any other district court to which my case may be transferred.

Date

Signature

Name (Last, First, MI)

Prison Identification #

Address

City

State

Zip Code

¹ A "prisoner" is "any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary program." 28 U.S.C. § 1915(h).