

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GLENN JOHNSON,

Plaintiff,

-against-

CITY OF NEW YORK; NEW YORK CITY
CORRECTION DEPARTMENT; C.O. CEESAY
#6358; CAPTAIN ALBURY #884; CAPTAIN
JANE DOE; CAPTAIN JOHN DOE,

Defendants.

24-CV-3173 (RA)

ORDER OF SERVICE

RONNIE ABRAMS, United States District Judge:

Plaintiff, who currently is incarcerated at Clinton Correctional Facility, brings this action *pro se*. He asserts claims, under 42 U.S.C. § 1983, for deliberate indifference to a serious risk of harm to him that arose on March 24, 2023, in the North Infirmary Command on Rikers Island. By order dated May 17, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis*, that is, without prepayment of fees.¹

STANDARD OF REVIEW

The Prison Litigation Reform Act requires that federal courts screen complaints brought by prisoners who seek relief against a governmental entity or an officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a prisoner's *in forma pauperis* complaint, or any portion of the complaint, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b); *see Abbas v. Dixon*, 480 F.3d

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. *See* 28 U.S.C. § 1915(b)(1).

636, 639 (2d Cir. 2007). The Court must also dismiss a complaint if the court lacks subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3).

DISCUSSION

A. New York City Department of Correction

As an agency of the City of New York, the New York City Department of Correction (DOC) is not an entity that can be sued. N.Y. City Charter ch. 17, § 396 (“[A]ll actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law.”); *Jenkins v. City of New York*, 478 F.3d 76, 93 n.19 (2d Cir. 2007); *see also Emerson v. City of New York*, 740 F. Supp. 2d 385, 396 (S.D.N.Y. 2010) (“[A] plaintiff is generally prohibited from suing a municipal agency.”). Plaintiff’s claims against the DOC must therefore be dismissed.

B. Service on Defendants Albury, Ceesay, and the City of New York

The Clerk of Court is directed to notify the New York City DOC and the New York City Law Department of this order. The Court requests that Captain Albury (#884), Correction Officer Ceesay (#6358), and the City of New York waive service of summons.

C. Identifying Captains John and Jane Doe

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York City DOC to identify Captains John and Jane Doe, on duty in the Intake Unit of the North Infirmery Command at about 3:00 p.m. or thereafter on March 24, 2023. It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the DOC, must ascertain the identity and badge number of each Doe defendant whom Plaintiff seeks to sue here and the address where each defendant may be

served.² The New York City Law Department must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days after receiving this information, Plaintiff must file an amended complaint naming the Doe defendants. The amended complaint will replace, not supplement, the original complaint. An amended complaint form for Plaintiff to complete after receiving this information is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order asking Defendants to waive service.

D. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled [“Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.”](#) Within 120 days of the date of this order, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.³

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package. The Court dismisses Plaintiff’s claims against the New York City

² If the Doe defendant is a current or former DOC employee or official, the New York City Law Department should note in the response to this order that an electronic request for a waiver of service can be made under the e-service agreement for cases involving DOC defendants, rather than by personal service at a DOC facility. If the Doe defendant is not a current or former DOC employee or official, but otherwise works or worked at a DOC facility, the New York City Law Department must provide a residential address where the individual may be served.

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

Department of Correction because it lacks the capacity to be sued. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

The Clerk of Court is directed to electronically notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that Defendants City of New York, Captain Albury, and Correction Officer Ceesay waive service of summons.


The Clerk of Court is further directed to mail a copy of this order and the complaint to the New York City Law Department at: 100 Church Street New York, NY 10007.

Local Civil Rule 33.2 applies to this action.

SO ORDERED.

Dated:

New York, New
York
June 4, 2024



RONNIE ABRAMS
United States District Judge