

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

M.C.,

Plaintiff,

-against-

COUNTY OF WESTCHESTER, NEW YORK;
WESTCHESTER MEDICAL CENTER; CHERYL
ARCHBALD; IRMA W. COSGRIFF; ADA
HUANG; LAUREL SKELSON; GERMAINE
JACQUETTE; MIRAL A. SUBHANI; SHERLITA
AMLER; JOHN DOES #1 – #3, and JANE DOES
#1 – #3,

Defendant.

USDC SDNY
DOCUMENT
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DATE FILED: 8/29/2023

No. 16 Civ. 3013 (NSR)

ORDER OF DISMISSAL

NELSON S. ROMÁN, United States District Judge:

Plaintiff M.C. (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 1983 (“Section 1983”) against the County of Westchester, New York, Sherlita Amler, Ada Huang, and Germaine Jacquette, (collectively, the “Defendants”) for claims arising from alleged retaliation in violation of the First Amendment and abuse of process. (ECF No. 155.) A bifurcated jury-trial was scheduled to commence on April 17, 2023. However, on April 1, 2023, Plaintiff’s counsel sought leave to file a motion under seal and *ex parte* to withdraw as counsel. (*See* ECF No. 226); *see also* U.S. S.D.N.Y. and E.D.N.Y. Joint Local Rule 1.4 (“An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the Court”). On April 2, 2023, the Court granted Plaintiff’s counsel leave to file their motion under seal and *ex parte*. (ECF No. 227.) On April 5, 2023, Plaintiff’s counsel filed their *ex parte* motion to withdraw along with supporting affidavits. (ECF No. 232.) On April 7, 2023, Plaintiff’s counsel filed proof that counsel had mailed the motion and supporting documents to Plaintiff’s last known address and to the

address of an additional property which Plaintiff is believed to own. (ECF No. 233.) Proof of conspicuous service of the motion documents at Plaintiff's last known address was filed on April 10, 2023. The Court then stayed the case for 30 days, adjourned the trial, and directed Plaintiff to retain new counsel by May 12, 2023. (ECF No. 235.) As of the date of this Order, Plaintiff has neither retained new counsel nor appeared *pro se* in this action.

On May 23, 2023, this Court ordered Plaintiff to "show cause in writing on or before July 7, 2023 why this action should not be dismissed without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b)." (ECF No. 240.) Plaintiff was warned that "[f]ailure to comply with this Court's present order will result in dismissal of this case for want of prosecution." (*Id.*) As of the date of this Order, Plaintiff has not responded to this Court's May 23, 2023 Order to Show Cause. Accordingly, it is hereby

ORDERED that Plaintiff's claims be dismissed without prejudice for want of prosecution. Defendants are directed to mail a copy of this Order to Plaintiff at Plaintiff's last known address and to file proof of service on the docket. The Clerk of Court is respectfully directed to terminate the action.

SO ORDERED.

Dated: August 29, 2023
White Plains, New York



NELSON S. ROMÁN
United States District Judge