

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JERRY ADAMS,

Plaintiff,

v.

ANTHONY ANNUCCI, *et al.*,

Defendants.

No. 17-CV-3794 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

On March 27, 2020, the Court issued an Opinion and Order granting in part and denying in part Defendants' Motion To Dismiss. (Dkt. No. 60.) The Court stated that if Plaintiff wished to file a third amended complaint alleging additional facts with respect to his Eighth and Fourteenth Amendment claims, he must do so within 30 days of the date of the Opinion & Order. (*Id.*) After multiple extensions of time, Plaintiff filed a Motion For Reconsideration. (Dkt. No. 75.) On January 29, 2021, the Court denied Plaintiff's Motion For Reconsideration. (Dkt. No. 77.) On February 4, 2021, Defendants requested that the Court lift the stay of deadlines for Plaintiff to file a third amended complaint. (Dkt. No. 78.) On February 4, 2021, the Court granted Defendants' request and lifted the stay of deadlines for Plaintiff to file any further amended pleadings. (Dkt. No. 79.) The Court also directed Plaintiff to file a third amended complaint by March 16, 2021. (*Id.*) Plaintiff has not filed a third amended complaint and has not otherwise communicated with the Court.

A district court may dismiss a claim with prejudice for failure to prosecute. *Palmieri v. Defaria*, 88 F.3d 136, 140 (2d Cir. 1996). Such authority "is an inherent . . . control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious

disposition of cases.” *Theilmann v. Rutland Hospital*, 455 F.2d 853, 855 (2d Cir.1972) (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962)). Given this authority, the Court concludes that dismissal of Plaintiff’s Eighth and Fourteenth Amendment claims is warranted. Plaintiff has been afforded nearly a year to file a third amended complaint to address the deficiencies in his Eighth and Fourteenth Amendment claims and has not done so. Plaintiff was instructed that failure to do so could result in dismissal of these claims. (Dkt. No 60.)

Given that Plaintiff has not filed a third amended complaint, his Eighth and Fourteenth Amendment claims are dismissed with prejudice.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: April 1, 2021
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE