

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TASHAY DAVID DEANS,

Plaintiff,

-against-

SGT. CIMORELLI, et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/4/2022

7:18-cv-2576-NSR

SUPPLEMENTAL ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff brings this *pro se* action, alleging that Defendants denied him medical attention at the Orange County Jail. (ECF No. 2.) The Court issued an Order of Service and Valentin Order on June 25, 2018 (ECF No. 7.) On October 22, 2018, Plaintiff filed an amended complaint. (ECF No. 12.) Plaintiff filed a request to have the U.S. Marshals Service effect service, a Valentin Order, and proposed order to show cause (ECF Nos. 25, 26, 27). The Court denied those requests without prejudice, and directed Plaintiff to submit an application for *in forma pauperis* status, and granted leave to file a Second Amended Complaint (“SAC”). (ECF No. 28.)

Plaintiff filed an *in forma pauperis* application and a SAC on July 20, 2022 (ECF Nos. 33, 34.) The Court granted Plaintiff’s *in forma pauperis* application on October 4, 2022, and therefore is deemed to have paid the filing fee.

A. Issuance of Summons

The Clerk of the Court is directed to issue a summonses as to newly named Defendants Orange County New York,¹ Steven M. Newhaus, Karin Hablow, Sheriff Carl E. DeBois (collectively, “Defendants”). Plaintiff is directed to serve the summonses and SAC within 90 days

¹ Plaintiff has filed claims against Orange County pursuant to *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691 (1978), as suggested by this Court in its April 21, 2022 order. (ECF No. 28.)

of the issuance of the summonses. If within those 90 days, Plaintiff has not either served Defendants or requested an extension of time to do so, the Court may dismiss the claims against these Defendants under Rules 4 and 41 of the Federal Rules of Civil Procedure for failure to prosecute.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for the Defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon the Defendants.

B. Valentin Order

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 SAC, Plaintiff supplies sufficient information to permit the Orange County Law Department to identify the nurses and doctors who treated Plaintiff’s eye conditions at the Orange County Correctional Facility from November 2017 through February 2018. It is therefore ordered that the Law Department, which is the attorney for an agent of the Orange County Department of Correction, must ascertain the identity and badge number of each John Doe whom Plaintiff seeks to sue here and the address where the defendant

may be served. The Law Department must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days of receiving this information, Plaintiff must file a Third Amended Complaint naming the John Doe Defendants. The Third Amended Complaint will replace, not supplement, the Second Amended Complaint. A Third Amended Complaint form that Plaintiff should complete is attached to this order. The Court will screen the Third Amended Complaint once it is filed by Plaintiff.

CONCLUSION

The Clerk of the Court is directed to mail a copy of this supplemental order to Plaintiff.


The Clerk of the Court is directed to mail a copy of this order and SAC to the Orange County Law Department at: 255-275 Main Street, Goshen, NY 10924.

The Clerk of the Court is directed to issue summonses as to Defendants (as defined above).

The Court certifies under 18 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: October 4, 2022
White Plains, New York

SO ORDERED:

HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

DEFENDANTS AND SERVICE ADDRESS

1. Orange County New York
255 Main Street,
Goshen, NY 10924
2. Steven M. Newhaus
County Executive
255 Main Street,
Goshen, NY 10924
3. Karin Hablow
Finance Commissioner
255 Main Street,
Goshen, NY 10924
4. Carl E. DeBois
Sheriff of Orange County Correctional Facility
255 Main Street,
Goshen, NY 10924

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-

**THIRD 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: _____