

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TASHAY DAVID DEANS,

Plaintiff,

-against-

SGT. CIMORELLI, et al.,

Defendants.

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 3/28/2023

7:18-cv-2576-NSR

SECOND 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.) The Court issued a Supplemental Order of Service on October 4, 2022. (ECF No. 22.) The Court also issued a Supplemental Valentin Order on December 5, 2022 to identify John Doe Defendants (ECF No. 46), and plaintiff subsequently filed a Third Amended Complaint on December 29, 2022. (ECF No. 150.) On January 18, 2023, because the Third Amended Complaint continued to name John Doe defendants despite having been identified through the Supplemental Valentin Order, the Court granted leave to file a Fourth Amended Complaint, indicating the following: “Plaintiff must include ALL of the claims and allegations he wishes to raise in this amended pleading. The Fourth Amended Complaint will not serve as a supplement to prior complaint.” (ECF No. 55.) Plaintiff thereafter filed a Fourth Amended Complaint on March 6, 2023. (ECF No. 61.)

Plaintiff now submits the following: (i) a request for *In Forma Pauperis* (“IFP”) for Service by the USMS (ECF No. 58); (ii) a request for an order appointing Marshal Service to serve Defendants (ECF No. 59; and (iii) another Valentin Order (ECF No. 60).

As discussed below, the Court finds that the *in forma pauperis* application is MOOT, GRANTS the request for an order appointing Marshal Service to serve the named Defendants in the Fourth Amended Complaint; and (iii) DENIES Plaintiff’s request for another Valentin Order.

1. IFP Application

The Court notes that Plaintiff’s request to proceed IFP was granted on March 2, 2018. (ECF No. 1.) Plaintiff’s IFP application has not been rescinded or revoked. Therefore, Plaintiff’s request to proceed IFP is MOOT, and the Court need not re-issue an order granting an IFP application. (*See* ECF No. 58.)

2. 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 Fourth Amended Complaint, Plaintiff no longer names any John Doe defendants.

However, Plaintiff’s *Valentin* requests identification for a number of individuals that are not named as defendants in the Fourth Amended Complaint.¹ In its January 18, 2023 memorandum endorsement, the Court was clear in granting leave to file a Fourth Amended Complaint that “Plaintiff must include ALL of the claims and allegations he wishes to raise in this amended pleading. The Fourth Amended Complaint will not serve as a supplement to prior complaint.” (*See* ECF No. 55.)

¹ A *Valentin* Order is not needed for Defendants Karin Hablow or Correct Care Solutions d/b/a Orange County Goshen Jail Medical Unit.

Because Plaintiff seeks a *Valentin* Order for individuals not named in the Fourth Amended Complaint, the Court DENIES Plaintiff's request for a *Valentin* Order.

3. Issuance of Summons

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.

The Clerk of the Court is directed to issue summonses as to Defendants listed in Appendix A to this Order, who have not previously been served in this action. Plaintiff is directed to serve the summonses and Fourth Amended Complaint within 90 days 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.

CONCLUSION

For the aforementioned reasons, the Court finds that the *in forma pauperis* application is MOOT, GRANTS the request for an order appointing Marshal Service to serve the named Defendants in the Fourth Amended Complaint, and DENIES Plaintiff's request for another *Valentin* Order.

The Clerk of the Court is directed to terminate the motion at ECF No. 53, which was a request for an order of service as to the Third Amended Complaint, as that application is now moot.

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


The Clerk of the Court is directed to issue summonses as to Defendants (as defined above and listed in Appendix A).

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: March 28, 2023
White Plains, New York

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

APPENDIX A: DEFENDANTS AND SERVICE ADDRESS

1. Karin Hablow
255 Main Street,
Goshen, NY 10924
2. Carl E. DeBois
255 Main Street,
Goshen, NY 10924
3. Correct Care Solutions, aka "Orange County Goshen Jail Medical Unit"
110 Wells Farm Road,
Goshen, NY 10924
4. Dr. Kulkesza
7 Stembrook Rd.
Montvale, New Jersey 07645
5. Dr. Feldman
11 Ungava Dr
New City, New York 10956
6. Kathleen Gregory, RN
15 Joe Lane Wurtsboro,
New York 1279
7. Stephanie Crockett, RN 500
Stratford Lane Middletown,
New York 10940
8. Adrienne Cupertino, RN
145 Millsburg Road
Middletown, New York 10949
9. Kim Parker, RN
255 Old Milford Rd
Milford, Pennsylvania 18337
10. Sierra Rawls, RN
91 Ruth Court
Middletown, New York 10940
11. Dr. George
715 Sandor Ct
Paramus, New Jersey 07652