

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/3/21

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CHARLES E. WASHINGTON,
Plaintiff,

v.

CORRECTION OFFICER T. FITZPATRICK,
CORRECTION OFFICER SAIN CLAIR,
SERGEANT SHERIDAN, LIEUTENANT
JORDAN, and COLONEL SIPPLE,
Defendants.
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ORDER OF DISMISSAL

20 CV 911 (VB)

Copies Mailed Faxed 6/3/21
Chambers of Vincent L. Briccetti
[Signature]

Plaintiff, proceeding pro se and in forma pauperis, commenced this action by filing a complaint dated January 24, 2020. (Doc. #2). As of that date, plaintiff was incarcerated at Shawangunk Correctional Facility. (See id.).

On March 15, 2021, the Court issued an Opinion and Order granting defendants' motion to dismiss and granting plaintiff leave to file an amended complaint **by May 17, 2021**, as to his claims for (i) First Amendment retaliation against C.O. Sain Clair and C.O. Fitzpatrick, (ii) a procedural due process claim against Lt. Jordan, and (iii) a conspiracy claim against C.O. Sain Clair, C.O. Fitzpatrick, and Lt. Jordan, in accordance with the instructions within the Opinion and Order. (Doc. #27). The Court informed plaintiff in bold and underlined typeface that if plaintiff failed to file an amended complaint or seek additional time to do so by May 17, 2020, the Court would deem plaintiff to have abandoned this case, would direct the Clerk to enter judgment in defendants' favor, and close the case. (Id. at 25). Chambers mailed a copy of the Opinion and Order, as well as the unpublished decisions cited within and an amended complaint form, to plaintiff at the address on the docket, which was listed as:

Charles E. Washington
DIN No. 95A4716
Shawangunk Correctional Facility
P.O. Box 700
Wallkill, NY 12589-0700

To date, plaintiff has not filed an amended complaint or sought an extension to file an amended complaint. Moreover, the New York State Department of Corrections and Community Supervision inmate look-up still indicates plaintiff is incarcerated at Shawangunk Correctional Facility. The Court has not received any return mail or other indication that plaintiff has not received its March 15, 2021, Order and attachments.

As a result, the Court concludes plaintiff has abandoned this case. Accordingly, having considered all of the factors set forth in Lucas v. Miles, 84 F.3d 532 (2d Cir. 1996), the Court dismisses this case with prejudice for failure to prosecute and failure to comply with Court orders. Fed. R. Civ. P. 41(b).

Chambers will mail a copy of this Order to plaintiff at the address listed on the docket.

The Court certifies under 28 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).

Dated: June 2, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge