

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/27/21

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CHAD S. JOHNSON,
Plaintiff,

v.

WARDEN OF DOWNSTATE
CORRECTIONAL FACILITY; EDWARD
BURNETT, Deputy of Security; SERGEANT S.
PETRIE; LT. KAILVETTI; OFFICER D.
ALLEN; and JOHN DOES 1-6,
Defendants.
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**AMENDED ORDER OF
SERVICE**

21 CV 986 (VB)

Copies Mailed/Faxed 4/27/21
Chambers of Vincent L. Briccetti
JA

Plaintiff, proceeding pro se and in forma pauperis, brings claims under 42 U.S.C. § 1983 for violations of his constitutional rights.

On March 17, 2021, the Court issued an Order of Service ordering the Office of the New York State Attorney General (“NYAG”) to ascertain the identity and address of several John or Jane Doe defendants, including the “Warden of Downstate Correctional Facility,” and the “Deputy of Security.” (Doc. #12). The Court ordered that within thirty days of receiving this information, plaintiff must file an amended complaint naming the John or Jane Doe defendants. (Id.).

On April 23, 2021, NYAG wrote a letter to the Court and plaintiff providing the name and address of the “Deputy of Security.” (Doc. #15). According to NYAG, the most likely identity of the “Deputy of Security” defendant is Edward Burnett, who is now the Superintendent of Fishkill Correctional Facility and may be served at the address appended to this Order. (Id.). However, NYAG has also informed the Court that it has been unable to ascertain the identity of “Warden of Downstate Correctional Facility.” (Id.).

Accordingly, it is HEREBY ORDERED that by May 17, 2021, plaintiff shall write a letter to the Court and NYAG providing any additional details he possesses about the identity of

the “Warden of Downstate Correctional Facility,” including any details regarding when the alleged failures to supervise staff occurred.

The Court will direct the Clerk to replace defendant “Deputy of Security” on the docket with “Edward Burnett, Deputy of Security.”

In addition, to allow plaintiff to effect service on defendant Edward Burnett 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 defendant Edward Burnett. The Clerk of Court is further instructed to issue a summons listing defendant Edward Burnett and deliver to the Marshals Service all paperwork necessary for the Marshals Service to effect service upon defendant Edward Burnett. The service addresses for this defendant is appended to this Order.

Plaintiff is instructed not to file an amended complaint at this time. Because NYAG is continuing to identify other defendants, the Court will instruct plaintiff to file an amended complaint after NYAG has completed its investigation. In addition, the deadline for NYAG to comply with the Court’s March 17, 2021 Order is extended to **May 31, 2021**.

It is plaintiff’s responsibility to ensure that service is made within 90 days of the date the summons is issued and, if necessary, to request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012). Plaintiff also must notify the Court in writing if plaintiff’s address changes, and the Court may dismiss the action if he fails to do so.

CONCLUSION

Plaintiff is directed to file a **letter** with the Court and to defendant by **May 17, 2021**, providing any additional details he possesses regarding the identity of “Warden of Downstate Correctional Facility,” including the time period during which the alleged failures to supervise staff occurred.

NYAG's deadline to comply with the Court's March 17, 2021 Order to identify the remaining John or Jane Doe defendants pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d Cir. 1997) is extended from May 17, 2021 to May 31, 2021.

The Clerk is directed to terminate "Deputy of Security" as a defendant from the docket and to add to the docket defendant "Edward Burnett, Deputy of Security."

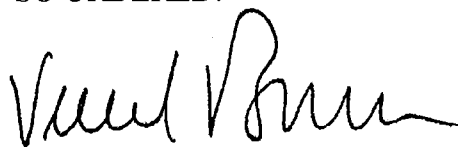
The Court directs the Clerk of Court to complete the USM-285 form with the address for the listed defendant and deliver all documents necessary to effect service on defendant Edward Burnett to the U.S. Marshals Service.

Chambers will mail a copy of this Order to plaintiff at the address 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: April 26, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

APPENDIX

- 1) Edward Burnett
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508