

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

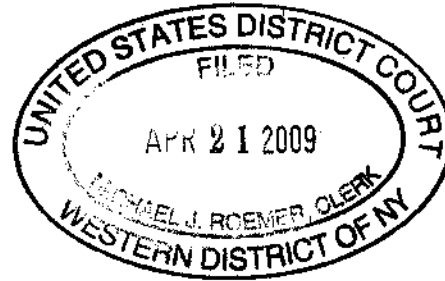
GREGORY FERGUSON, 95A1149,

Plaintiff,

-v-

TERRANCE STEVENS,

Defendants.



-PS-O-

DECISION AND ORDER
09-CV-0328S(Sc)

Plaintiff, George Ferguson, filed what the Court believed was a complaint and application to proceed *in forma pauperis* in a new action. However, upon receipt of information regarding the filing of this new action, plaintiff forwarded two letters to the Court, dated April 6 and 10, 2009, indicating that the complaint was intended as an amended complaint in an action already pending in this Court, *Ferguson v. T. Stevens*, 08-CV-0506S, and not a complaint in a new action. The Clerk of the Court is directed to docket both these letters in this action.

Accordingly, the Clerk of the Court is directed to (1) close this action; (2) docket the complaint in this action as an amended complaint in 08-CV-0506S; and (3) cause the United States Marshals Service to serve the summons and amended complaint on defendant T. Stevens in 08-CV-0506S. The Clerk of the Court is also directed to docket of copy of this Decision and Order in 08-CV-0506S.

If defendant T. Stevens has been served already with the summons and complaint in 08-CV-0506S, as previously directed in that action, he is relieved of any obligation to answer or otherwise respond to that complaint and is hereby directed to answer, pursuant to 42 U.S.C. § 1997e(g)(2), upon service, the amended complaint in 08-CV-0506S. In the event defendant has been served in

08-CV-0506S, the Clerk of the Court is directed to forward a copy of this Order to the Assistant Attorney in Charge, Main Place Tower, Suite 300A, 350 Main Street, Buffalo, New York 14202.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

DATED:

April 21, 2009
Rochester, New York