

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK GARRAWAY,

Plaintiff,

v.

DECISION AND ORDER
12-CV-924S

T. GRIFFIN, *et al.*,

Defendants.

1. *Pro se* Plaintiff, Mark Garraway, an inmate, filed a complaint in this Court on October 1, 2012. Undertaking an initial review of the complaint, Judge David G. Larimer, among other things, dismissed with prejudice Garraway's claims that defendants – various personnel at Southpoint Correctional Facility (some identified only as “John Doe”) – illegally tampered with or prevented him from sending or receiving his mail. Judge Larimer also directed the New York State Attorney General's Office to produce information regarding the identities of various John Doe defendants named in the complaint. “Once this information is provided,” ordered Judge Larimer, “plaintiff's complaint shall be deemed amended to reflect the full names of the John Doe defendants identified.” (Larimer Order, at 11, dated 5/8/13; Docket No. 5.)

2. On November 20, 2013, Garraway filed an amended complaint, representing that “plaintiff has determined [] the names of the John / Jane Doe defendants.” (Am. Compl., at 1; Docket No. 16.)

3. Most Defendants, even some who have not separately acknowledged service of the amended complaint, now move to dismiss any claim in the amended complaint relating to mail interference. (Docket Nos. 18, 27.) Because Judge Larimer already

dismissed these claims with prejudice (while allowing Garraway to amend his complaint for the limited purpose of identifying “John Does”) those motions are granted. Further, because Defendants Mackey, Washburn,¹ and Krusen are named only in relation to the mail-interference claims, and because those claims – found in Garraway’s seventh cause of action, and parts of his tenth and eleventh causes of action – will be dismissed, those defendants will likewise be dismissed from this action.

IT HEREBY IS ORDERED, that Defendants’ motions to partially dismiss the amended complaint (Docket Nos. 18, 27) are GRANTED.

FURTHER, Defendants Mackey, Washburn, and Krusen are dismissed as defendants in this action.

SO ORDERED.

Dated: June 5, 2014
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court

¹This defendant is identified as “Wshburn” in the amended complaint. But service was returned in the name of “Washburn.”