

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

SAMUEL SCIASCIA,

Plaintiff,

DECISION AND ORDER

06-CV-6344L

v.

D. MOFFE, T. ERBACH, SGT. EVANS and  
JOHN DOES 4-10,

Defendants.

---

Plaintiff, Samuel Sciascia (“Sciascia”) commenced this civil rights action, *pro se*, when ee was incarcerated with the New York State Department of Corrections. The complaint was filed in July 2006. Plaintiff has now been released from custody.

Defendants now move to dismiss the action for failure to prosecute and for failure to comply with several court orders relating to discovery (Dkt. #39). Plaintiff was ordered to Show Cause (Dkt. #40) as to whether plaintiff intended to continue prosecuting the action and the status of plaintiff’s compliance with defendants’ discovery requests and the Court’s prior orders. No written response has been filed.

Defendants’ motion to dismiss is granted and the complaint is dismissed. The affirmation by the Assistant Attorney General in charge of this case (Dkt. #37) sets forth a lengthy recitation of the many instances when plaintiff failed to cooperate in discovery and failed to comply with court

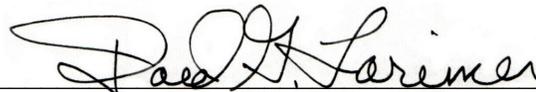
orders. Even the most basic requirements concerning the signing of medical authorizations was disregarded. In addition, according to the affidavit, plaintiff has indicated on several occasions that he does not intend to participate in the lawsuit and does not wish to pursue the lawsuit.

Based on all the reasons advanced in support of the motion to dismiss, I find that plaintiff has failed to comply with court orders, failed to comply with discovery, failed to reasonably prosecute this action and has also indicated on several occasions an intent to abandon this lawsuit.

#### CONCLUSION

For all the above reasons, defendants' motion to dismiss pursuant to FED. R. CIV. P. 41(b) is granted, and the complaint is dismissed. Defendants' motion to compel (Dkt. #31) is denied as moot.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
August 27, 2009.