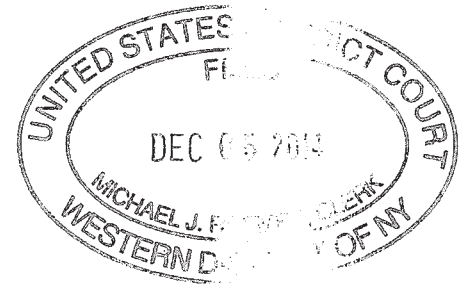


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



DERRICK R. OMARO, 92A0608,

Plaintiff,

v.

DECISION AND ORDER

ANTHONY ANNUCCI, Commissioner NYS
Department of Corrections & Community
Supervision; VERNON J. FONDA, Deputy
Commissioner/Inspector General NYS
Department of Corrections & Community
Supervision; MARK L. BRADT, Superintendent
Attica Correctional Facility; WILLIAM
HUGHES, Deputy Superintendent Attica
Correctional FACILITY; J. CHISHOLM,
Inmate Grievance Supervisor Attica Correctional
Facility; and K. SHEARING, Correctional
Officer Attica Correctional Facility,

13-cv-06442 EAW

Defendants.

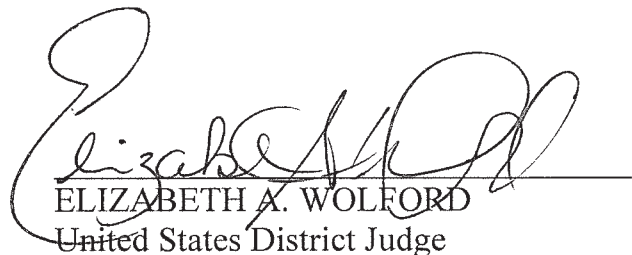
On November 13, 2014, this Court entered a Decision and Order (Dkt. 16) (the “November 13th Decision and Order”) granting Defendants’ motion for summary judgment (Dkt. 9) and ordering the Clerk of Court to enter judgment in favor of Defendants and close the case. Familiarity with the November 13th Decision and Order and the underlying factual background of this case is presumed for purposes of this Decision and Order.

The Clerk of Court, in accordance with the November 13th Decision and Order, entered judgment in favor of Defendants and closed the case on November 14, 2014. (Dkt. 17). On November 20, 2014, the Court received a letter from Plaintiff stating that

he is “assuming that based on the Court’s decision defendant Shearing is the only defendant left” and that he “wish[es] to move forward with the [pre-trial] proceedings. . . .” The Court construes this letter, which has been filed as Docket Number 18, as a request to correct the judgment entered on November 14, 2014, pursuant to Federal Rule of Civil Procedure 60(b)(1). The Court denies the request because the judgment comports with the November 13th Decision and Order.

Although Plaintiff states in his letter that “[t]here was absolutely no argument raised for defendant Shearing in the defendants[’] request for summary [judgment]” (Dkt. 18), the motion for summary judgment was filed on behalf of all defendants and argued that all defendants were entitled to summary judgment because Plaintiff failed to exhaust his administrative remedies. (Dkt. 9, 9-3). The Court held in favor of Defendants with respect to this argument and ordered the Clerk of Court to enter judgment in favor of all Defendants and close the case. (Dkt. 16 at 18). The judgment entered in this matter correctly reflects this holding and is not subject to correction pursuant to Rule 60(b)(1). Plaintiff’s request to correct the judgment is denied.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: December 5, 2014
Rochester, New York