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2000

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHARLES E. COLLINS, III,

Plaintiff,

-v.-

JAMES B. CAMPBELL; JOHN DOE and JANE DOE,

Defendants.

U. S. DISTRICT COURT
N.D. OF N.Y.
FILED
Sept 27 2000
LAWRENCE K. BASTIAN, CLERK
ALBANY

1: 00-CV-1348
(DNH)(DRH)

2
[Signature]

APPEARANCES:

CHARLES E. COLLINS, III
Plaintiff, *pro se*
108 Brunswick Road
Troy, NY 12180

DAVID R. HOMER, MAGISTRATE JUDGE

ORDER

Presently before the Court is a *pro se* civil rights complaint filed by Charles E. Collins, III ("plaintiff" or "Collins"). Plaintiff has paid the filing fee required for this action.

In his *pro se* complaint, plaintiff alleges, *inter alia*, that on or after December 23, 1999, while plaintiff was incarcerated at the Albany County Jail, (i) "plaintiff was exposed to asbestos in and around his bed", docket no. 1 at ¶ 8; (ii) the defendants failed to adequately heat plaintiff's cell block during the winter months, *id.* at ¶ 9; (iii) despite the "no smoking policy in the jail", plaintiff was exposed to second hand smoke which "was hazardous to the health and safety of the plaintiff", *id.* at ¶ 12; (iv) plaintiff was denied his right to privacy,¹ *id.* at ¶ 14; and (v) plaintiff was not provided adequate

¹ Collins claims that female guards were assigned to the cell block while inmates were taking showers and using the toilet facilities. Docket no. 1 at ¶ 14.

clothing when transported outside of the jail, *id.* at ¶ 15.² For a more complete statement of plaintiff's claims, reference is made to the entire complaint filed herein.

The Court notes that Collins has asserted claims against a "John Doe" and a "Jane Doe" defendant in this action. Plaintiff is advised that service cannot be effected upon a "John Doe" or "Jane Doe" defendant. In the event that plaintiff wishes to pursue this claim against these defendants, he shall take reasonable steps to ascertain their identities. Plaintiff may then file a motion to amend his complaint and seek leave of the Court to add such individuals, by name, as defendants to this lawsuit. Collins is further advised that if these individuals are not timely served, this action may be dismissed as against them.

WHEREFORE, it is hereby

ORDERED, that the plaintiff take reasonable steps to ascertain the identities of any other individual(s) that purportedly violated plaintiff's civil and/or constitutional rights, and it is further

ORDERED, that the Clerk shall forward a copy of the summons and complaint by mail to the Office of the County Attorney for the County of Albany, together with a copy of this Order, and it is further

ORDERED, that the parties shall comply with General Order 25, which sets forth the Civil Case Management Plan used by the Northern District of New York, and it is further

ORDERED, that a formal response to plaintiff's complaint be filed by the defendants or their counsel as provided for in Rule 12 of the Federal Rules of Civil Procedure subsequent to service of process on the defendants, and it is further

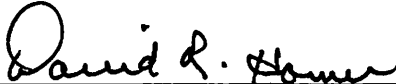
² Plaintiff has now been released from prison.

ORDERED, that any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of same was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a certificate of service which clearly states that an identical copy of same was served upon all opposing parties or their attorneys is to be returned, without processing, by the Clerk, to the party that sent same. Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. Plaintiff is also required to promptly notify the Clerk's Office and counsel for the defendants of any change in his address; his failure to do same will result in the dismissal of the instant action. All motions shall comply with the Local Rules of Practice of the Northern District, and it is further

ORDERED, that the Clerk serve a copy of this Order on plaintiff by regular mail.

IT IS SO ORDERED.

Dated: September 25, 2000
Albany, New York



David R. Homer
U.S. Magistrate Judge