

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
NEW YORK

Damon Scott v. John Doe CERT Officer-A; John Doe CERT Officer-  
B; John Doe CERT Officer-C; Michael Capra, Superintendent of  
Sing Sing Correctional Facility

Scott · No. 25-CV-9276 (KMK) · Decided December 2, 2025

SUMMARY

The United States District Court for the Southern District of New York directs the Clerk of Court and U.S. Marshals Service to serve Defendant Michael Capra in Plaintiff Damon Scott’s 42 U.S.C. § 1983 action. The court also issues a Valentin order requiring the New York State Attorney General’s Office to identify three John Doe CERT officers, directs Plaintiff to file an amended complaint naming them, and applies Local Civil Rule 33.2 discovery requirements.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                           |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of New York                                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Kenneth M. Karas                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | United States District Court for the Southern District of New York                                                                                                                                                                                                                                                        |
| DECIDED               | December 2, 2025                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 25-CV-9276 (KMK)                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Plaintiff brought a pro se 42 U.S.C. § 1983 action alleging excessive force and failure to intervene during a cell search. After granting in forma pauperis status, the district court entered an order addressing service on a named defendant, identification of John Doe defendants, and mandatory prisoner discovery. |
| PRECEDENTIAL VALUE    | unpublished district court order                                                                                                                                                                                                                                                                                          |
| PARTIES               | Damon Scott v. John Doe CERT Officer-A, John Doe CERT Officer-B, John Doe CERT Officer-C, Michael Capra, Superintendent of Sing Sing Correctional Facility                                                                                                                                                                |

TOPICS

- service of process
- prisoners rights
- section 1983
- discovery dispute
- civil procedure

## PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

## QUESTIONS PRESENTED

1. Whether the court should direct the U.S. Marshals Service to serve Superintendent Capra because Plaintiff was authorized to proceed in forma pauperis.
2. Whether the court should require the New York Attorney General's Office to identify the John Doe CERT officers and provide service information.
3. Whether Local Civil Rule 33.2 applies and requires Defendant Capra to respond to the specified prisoner discovery requests.

## HOLDINGS

1. When a plaintiff is authorized to proceed in forma pauperis, the court must direct the U.S. Marshals Service to issue and serve process, and the Clerk must provide the necessary summons and service materials.
2. For an in forma pauperis plaintiff who could not effect service until the court issued the summons, the time to serve is extended to 90 days after the summons issues.
3. A pro se litigant is entitled to district-court assistance in identifying an otherwise unidentified defendant when the complaint supplies sufficient information to permit identification.
4. Local Civil Rule 33.2 applies to this prisoner action and requires Defendant Capra to serve responses to the specified court-ordered interrogatories and document requests within 120 days after service of the complaint.

## KEY QUOTATIONS

*“Under Valentin v. Dinkins, a pro se litigant is entitled to assistance from the district court in identifying a defendant.”* (Discussion B)

*“Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.”* (Discussion A)

## FACTUAL BACKGROUND

Scott, who was incarcerated at Sing Sing Correctional Facility, alleged that corrections officials used excessive force and failed to intervene during a November 10, 2022 search of his cell. He provided sufficient information for the New York Attorney General's Office to identify the three unnamed CERT officers allegedly involved. Scott was proceeding without prepayment of fees after the court granted his in forma pauperis request.

## PROCEDURAL HISTORY

Scott filed a § 1983 complaint against three unidentified CERT officers and Superintendent Michael Capra. The court granted Scott leave to proceed in forma pauperis on November 7, 2025, and then issued this order directing

the Clerk and U.S. Marshals Service to serve Capra, directing the New York Attorney General's Office to identify the Doe defendants under Valentin, and applying Local Civil Rule 33.2 discovery obligations.

#### DISPOSITION

other

#### CASES CITED

- Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013)
- Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012)
- Valentin v. Dinkins, 121 F.3d 72, 76 (2d Cir. 1997)

#### OPINION

Scott

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

DAMON SCOTT,

Plaintiff, -against-

25-CV-9276 (KMK)

JOHN DOE CERT OFFICER-A; JOHN DOE

CERT OFFICER-B; JOHN DOE CERT ORDER OF SERVICE

OFFICER-C; MICHAEL CAPRA,

SUPERINTENDENT OF SING SING

CORRECTIONAL FACILITY,

Defendants. KENNETH M. KARAS, United States District Judge: Plaintiff, who currently is incarcerated at Sing Sing Correctional Facility, brings this action, pro se, under 42 U.S.C. § 1983, alleging that Defendants used excessive force and failed to intervene to protect him during a search of his cell. By order dated November 7, 2025, the Court granted Plaintiff's request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees.<sup>1</sup>

#### DISCUSSION

A. Service on Capra Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>2</sup> Walker v. Schult, 717 F.3d. 119, 123 n.6 1 Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. See 28 U.S.C. § 1915(b)(1). 2Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue. (2d Cir. 2013); see also

28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). To allow Plaintiff to effect service on Defendant Superintendent Michael Capra through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for this defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon this defendant. If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. See *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service). Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so. B. Valentin order Under *Valentin v. Dinkins*, a pro se litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York State Attorney General’s Office to identify the three John Doe Corrections Emergency Response Team (“CERT”) officers that Plaintiff alleges were involved in the events of November 10, 2022, as described in the complaint. It is therefore ordered that the Attorney General’s Office, which is the attorney for and agent of the New York State Department of Corrections and Community Supervision, must ascertain the identity and badge number of each John Doe whom Plaintiff seeks to sue here and the address where the defendant may be served. The Attorney General’s Office must provide this information to Plaintiff and the Court within sixty days of the date of this order. Within thirty days of receiving this information, Plaintiff must file an amended complaint naming the newly identified John Doe defendants. The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to complete the USM-285 forms with the addresses for the named John Doe Defendants and deliver all documents necessary to effect service to the U.S. Marshals Service. C. Local Civil Rule 33.2 Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled “Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.” Within 120 days of service of the complaint, Defendant Capra must serve responses to these standard discovery requests. In his responses, Defendant Capra must quote each request verbatim.<sup>3</sup>

## CONCLUSION

The Clerk of Court is instructed to issue a summons for Superintendent Capra, complete the USM-285 form with the address for this defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service. <sup>3</sup> If Plaintiff would like copies of these discovery requests before

receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit. The Clerk of Court is directed to mail a copy of this order and the complaint to the New York State Attorney General's Office at: 28 Liberty Street, New York, NY 10005. The Clerk of Court is directed to mail an information package to Plaintiff. Local Civil Rule 33.2 applies to this action. SO ORDERED. Dated: = 12/2/2025 th White Plains, New York

KENNETH □□ KARAS)

United States District Judge

SERVICE ADDRESS FOR DEFENDANT

Superintendent Michael Capra Sing Sing Correctional Facility 354 Hunter Street Ossining, NY 10562