

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KELVIN MILES,

Plaintiff,

v.

WILLIAM BARR, *et al.*,

Defendants.

Civil Action No. 21-cv-2271 (FYP)

ORDER

On April 21, 2021, plaintiff Kelvin Miles filed this action in the District of Columbia Superior Court against defendants William Barr, John Ashcroft, Alberto Gonzales, Lorretta Lynch, and David Stanley, alleging that Plaintiff is wrongfully imprisoned and that he was maliciously prosecuted. *See* ECF No. 1. The case was removed to this Court on August 26, 2021. *Id.* On November 2, 2021, Defendants filed a Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(5), and 12(b)(6). *See* ECF No. 8. Because Plaintiff is proceeding *pro se*, the Court issued an order advising Plaintiff of his obligation to respond to Defendants' Motion to Dismiss, under the Federal Rules of Civil Procedure and the local rules of this Court, and setting the deadline of December 7, 2021, for Plaintiff to file his response. *See* ECF No. 9 (citing *Fox v. Strickland*, 837 F.2d 507, 509 (D.C. Cir. 1988); *Neal v. Kelly*, 963 F.2d 453, 456 (D.C. Cir. 1992)). The Court further cautioned Plaintiff that failure to respond could result in the Court granting the Motion as conceded. *Id.*

On November 30, 2021, Plaintiff filed an Amended Complaint. *See* ECF No. 12. Defendants then filed a Motion to Dismiss the Amended Complaint on December 14, 2021. *See* ECF No. 13. As a result, the Court denied the [8] Motion to Dismiss the original complaint, *see*

Order, dated December 14, 2021; and ordered Plaintiff to respond to the renewed [13] Motion to Dismiss by January 11, 2022. *See* ECF No. 14. Plaintiff subsequently filed a Motion to Withdraw the Amended Complaint on December 27, 2021. *See* ECF No. 16. The Court granted the [16] Motion to Withdraw; denied the renewed [13] Motion to Dismiss as moot; and reinstated the original [8] Motion to Dismiss. *See* Order dated January 7, 2022. The Court then ordered Plaintiff to respond to the [8] Motion to Dismiss by February 4, 2022, and again cautioned Plaintiff that failure to respond would result in the Court granting the Motion to Dismiss as conceded. *See* ECF No. 17. Plaintiff filed a motion for extension of time to respond on January 28, 2022. *See* ECF No. 20. The Court granted Plaintiff's motion and extended the deadline for Plaintiff to file an opposition to the Motion to Dismiss to March 2, 2022. *See* Order, dated February 2, 2022.¹

The March 2, 2022, deadline has passed, and Plaintiff has not filed an opposition to Defendants' Motion to Dismiss, nor requested another extension of time to respond to the Motion. Local Civil Rule 7(b) provides that if a memorandum in opposition to a party's motion is not filed within the prescribed time, "the Court may treat the motion as conceded." Rule 7(b) "is a docket-management tool that facilitates efficient and effective resolution of motions." *Texas v. United States*, 798 F.3d 1108, 1113 (D.C. Cir. 2015) (quoting *Fox v. Am. Airlines, Inc.*, 389 F.3d 1291, 1294 (D.C. Cir. 2004)). "The Court need not provide notice before enforcing the rule or offer a party an opportunity to explain its failure to comply." *Vemuri v. Napolitano*, 771 F. Supp. 2d 27, 28 (D.D.C. 2011) (citing *Fox*, 389 F.3d at 1295).

¹ On February 10, 2022, the Court granted Plaintiff's request to amend his complaint, but still ordered he file a response to defendants' Motion to Dismiss by March 2, 2022, and that the defendants address the additional allegation in their reply. *See* Order, dated February 10, 2022

Given Plaintiff's failure to respond to Defendants' Motion, pursuant to Local Civil Rule 7(b), it is hereby

ORDERED that Defendants' Motion to Dismiss is **GRANTED** as conceded.
SO ORDERED.

FLORENCE Y. PAN
United States District Judge

Date: March 8, 2022