

complaint to prison authorities for mailing to court on or before May 6. Since it is not clear that he failed to do so, the action cannot be summarily dismissed. See Ortiz v. Cornetta, 867 F.2d 146, 148 (2d Cir. 1989).¹

Accordingly, defendants' motion to dismiss [doc. # 7] is hereby denied.

So ordered.

Dated at Hartford, Connecticut this 24th day of July 2006.

\s\

Robert N. Chatigny
United States District Judge

¹ Defendants argue that their motion to dismiss may be granted because plaintiff has failed to demonstrate that he satisfied the statute of limitations. See Defs.' Mem. In Support of Mot. To Dismiss at 3 (citing Sidney v. Wilson, 228 F.R.D. 517 (S.D.N.Y. 2005)). Consistent with the Second Circuit's opinion in Ortiz, however, uncertainty as to when plaintiff gave the complaint to prison officials for mailing precludes summary dismissal.