

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DERRICK ANDERSON,

Plaintiff,

vs

9:08-CV-176

MS. CONNELL, Superintendent; P. NAUGHTON,
Deputy of Security; B. SHARPSTENE, Correction
Officer; D.S. HULL, Correction Officer; and SGT.
FREY, Sergeant; All of Oneida Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

DERRICK ANDERSON
Plaintiff, Pro Se
75 Hastings Street
Buffalo, NY 14215

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
The Capitol
Albany, New York 12224

ADRIENNE J. KERWIN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Derrick Anderson, brought this civil rights action in February 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 3, 2009, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants' motion to dismiss (Docket No. 31) be granted as to Connell and the amended complaint be dismissed as to her; granted as to Anderson's due process claim based on (a) a biased

hearing officer and (b) false misbehavior reports and denied in all other respects. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Homer, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

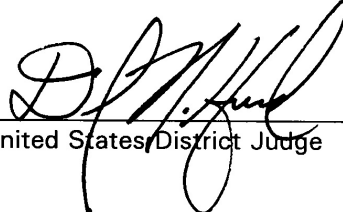
Accordingly, it is

ORDERED that

1. The defendants' motion to dismiss is GRANTED as to defendant Ms. Connell;
2. The amended complaint is DISMISSED as to defendant Ms. Connell;
3. The defendants' motion to dismiss is GRANTED as to the due process claim based on (a) a biased hearing officer, and (b) false misbehavior reports;
4. The defendants' motion to dismiss is DENIED in all other respects; and
5. A conference has been scheduled for November 30, 2009, at 12:30 p.m. at the United States Courthouse in Utica, New York, to issue a trial date.

IT IS SO ORDERED.

Dated: September 28, 2009
Utica, New York.


United States District Judge