UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK JAMES R. MERCER, JR., Plaintiff, 9:08-CV-537 vs T. BENSON, Correctional Officer, Wende C.F.; T. HUNTER, Correctional Officer, Wende C.F.; R.N.P. SMITH, Correctional Sergeant, Wende, C.F.; RICHARD ROY, Inspector General, NYS DOCS; DALE ARTUS, Superintendent, Clinton C.F.; LINDA TURNER, Deputy Superintendent for Program Services, Clinton, C.F.; VONDA JOHNSON, Director of Facility Health Services, Clinton C.F.; BRIAN LECUYER, Nurse Administrator, Clinton C.F.; S. MILLER, Nurse Practitioner, Clinton, C.F., and T. BROUSSEAU, Inmate Grievance Program Supervisor, Clinton, C.F., Each sued in their Individual and Official Capacities, Defendants. APPEARANCES: OF COUNSEL: JAMES R. MERCER, JR. 87-C-0688 Wyoming Correctional Facility P.O. Box 501 Attica, NY 14011 Plaintiff, pro se HON. ANDREW M. CUOMO MICHAEL G. McCARTIN, ESQ. Attorney General of the Asst. Attorney General State of New York Attorney for Defendants Department of Law The Capitol Albany, New York 12224 DAVID N. HURD United States District Judge

DECISION and ORDER

Plaintiff, James R. Mercer, Jr., brought this civil rights action in March 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 14, 2009, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants' motion for judgment on the pleadings (Docket No. 49) be granted and that judgment be entered in favor of defendants Roy, Turner, and Artus, on all claims against them, and that the ADA claims be dismissed against all defendants. No objections to the Report-Recommendation were filed by the plaintiff.

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. <u>See</u> 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. The defendants' motion for judgment on the pleadings is GRANTED as to defendants Richard Roy, Dale Artus, and Linda Turner, on all claims against them;

2. The plaintiff's ADA claims are DISMISSED against all defendants;

3. The Clerk is directed to enter judgment in favor of the defendants Roy, Artus,

and Turner, dismissing the complaint as against them.

5. The above action is referred to the Honorable Victor Bianchini, Recalled United States Magistrate Judge, for the purposes of mediation. Any further proceedings are stayed pending the completion of mediation.

IT IS SO ORDERED.

Dated: September 23, 2009 Utica, New York.

United States District Judge