

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DAVID WILLIAM LINDER,

Plaintiff,

**1:16-cv-962
(GLS/DJS)**

v.

NEW YORK STATE POLICE,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

DAVID WILLIAM LINDER
Plaintiff, *pro se*
25913-048
Pekin
Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 5000
Pekin, IL 61555

Gary L. Sharpe
Senior District Judge

ORDER

The above-captioned matter comes to this court following a Report-Recommendation and Order by Magistrate Judge Daniel J. Stewart, duly filed on September 28, 2016. (Dkt. No. 10.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.

No objections having been filed,¹ and the court having reviewed the Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation and Order (Dkt. No. 10) is **ADOPTED** in its entirety; and it is further

ORDERED that plaintiff's original complaint be dismissed, pursuant to 28 U.S.C. § 1915 and § 1915A for failure to state a claim, however, in light of his *pro se* status; it is further

ORDERED that the court affords the plaintiff thirty (30) days from the date of this order, to file an amended complaint, which he filed on October 17, 2016, (Dkt. No. 11), to correct the format and expand upon the facts that would support his claim for entitlement to relief and it shall be a complete pleading that supersedes his original complaint in all respects and shall not include any claims that have been dismissed with prejudice by this court (and does not incorporate by reference any portion of his original Complaint); and it is further

ORDERED that plaintiff is directed to comply in all respects with

¹ The plaintiff did not file any objections to the Order and Report-Recommendation. The plaintiff filed an amended complaint. (Dkt. No. 11.)

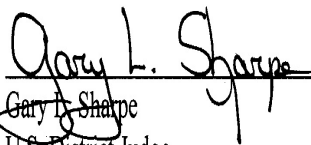
Rules 8(1) and 10(b) of the Federal Rules of Civil Procedure, which require, *inter alia*, that the amended complaint contain a short and plain statement of each claim showing that plaintiff is entitled to relief, and that he states his claims in numbered paragraphs, each limited as far as practical to a single set of circumstances; and it is further

ORDERED that the amended complaint, (Dkt. No. 11), is referred to Magistrate Judge Stewart for compliance with this court's order and, if necessary, initial review pursuant to 28 U.S.C. §§ 19159(e) and 1915A; and it is further

ORDERED that the clerk of the court serve a copy of this order upon the parties in accordance with this court's Local Rules.

IT IS SO ORDERED.

October 18, 2016
Albany, New York



Gary D. Sharpe
U.S. District Judge