

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL A. DEMUTH,

Plaintiff,

v.

3:18-CV-0796  
(GTS/DEP) [LEAD CASE]

NEW YORK STATE POLICE; SGT. THATFORD;  
TPR. MORRIS; INV. R. QUICK; INV. ALLEN;  
INV. SODEN; SR. INV. KILTPATRICK; TOWN OF  
NORWICH; and TPT MATTICE,

Defendants.

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MICHAEL A. DEMUTH,

Plaintiff,

v.

3:18-CV-0936  
(GTS/DEP) [MEMBER CASE]

NEW YORK STATE POLICE; INV. R. QUICK;  
INV. ALLEN; INV. SODEN; SGT. THATFORD;  
and TPR MATTICE,

Defendants.

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APPEARANCES:

MICHAEL A. DEMUTH

Plaintiff, *Pro Se*

Chenango County Jail

279 County Road 46

Norwich, New York 13815

GLENN T. SUDDABY, Chief United States District Judge

## **DECISION and ORDER**

Currently before the Court, in these two consolidated *pro se* civil rights actions filed by Michael A. Demuth (“Plaintiff”) against the above-captioned entities and individuals (“Defendants”), is United States Magistrate Judge David E. Peebles’ Report-Recommendation recommending that Plaintiff’s Complaints be sua sponte dismissed for failure to state a claim with leave to replead. (Dkt. Nos. 11, 6.) Plaintiff has not filed an objection to the Report-Recommendation, and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Peebles’ thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, and Plaintiff’s Complaints will be dismissed unless, within thirty (30) days of the date of this Decision and Order, he files a Consolidated Amended Complaint in the Lead Case (3:18-cv-796) only that corrects the pleading defects identified in his original Complaints.

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a “clear error” review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

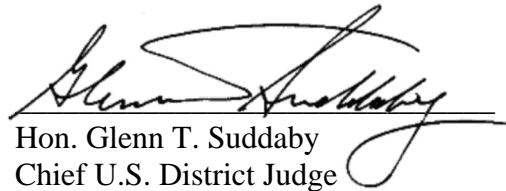
**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Peebles' Report-Recommendation (Dkt. Nos. 11, 6) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Plaintiff's Complaints in these two consolidated action will be **DISMISSED** unless, within **THIRTY (30) DAYS** of the date of this Decision and Order, he files a Consolidated Amended Complaint in the Lead Case (3:18-cv-796) that corrects the pleading defects identified in the Report-Recommendation; and it is further

**ORDERED** that, should Plaintiff file such a Consolidated Amended Complaint within thirty (30) days of the date of this Decision and Order, the Amended Complaint shall be referred to Magistrate Judge Peebles for his review pursuant to 28 U.S.C. §1915.

Dated: November 13, 2018  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge