

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**
STEVEN KLESTINEZ,

Plaintiff,

**6:21-cv-696
(GLS/ATB)**

v.

ACT TEAM et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

STEVEN KLESTINEZ

Pro Se

11109

Oneida County Correctional Facility

6075 Judd Road

Oriskany, NY 13424

Gary L. Sharpe

Senior District Judge

ORDER

The above-captioned matter comes to this court following an Order and Report-Recommendation (R&R) by Magistrate Judge Andrew T. Baxter, duly filed August 19, 2021. (Dkt. No. 8.) 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, and the court having reviewed the R&R for clear error, it is hereby

ORDERED that the Order and Report-Recommendation (Dkt. No. 8) is **ADOPTED** in its entirety; and it is further

ORDERED that plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE** and **WITHOUT LEAVE TO AMEND** as against defendants Office of Mental Health and ACT Team; and it is further

ORDERED that plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE WITH LEAVE TO AMEND** as against defendant Commissioner of Mental Health; and it is further

ORDERED that, if plaintiff files an amended complaint, he is warned that any amended complaint must be a complete and separate pleading. Plaintiff must state all of his claims in the new pleading and may not incorporate by reference, any part of his original complaint; and it is further

ORDERED that any amended complaint shall be filed within thirty (30) days of this order; and it is further

ORDERED that, if plaintiff files an amended complaint, such proposed amended complaint will be referred to the Magistrate Judge for initial review; and it is further

ORDERED that, if plaintiff fails to file an amended complaint within the time permitted, the clerk is directed to close this case without further order of the court; and it is further

ORDERED that the Clerk provide a copy of this Order to the plaintiff in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 8, 2021
Albany, New York



Gary L. Sharpe
U.S. District Judge