

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

JOSEPH ALLEN BROWN,

Plaintiff,

v.

8:18-cv-169
(TJM/CFH)

NEW YORK STATE EDUCATION DEPARTMENT,

Defendant.

Thomas J. McAvoy, SR. U.S.D.J.

DECISION and ORDER

The Court referred this action alleging that the New York State Department of Education violated Plaintiff's rights, to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. The Report-Recommendation, dated March 19, 2018, recommends that the Court dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted.

Plaintiff filed timely objections to the Report-Recommendation. When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo*" determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further

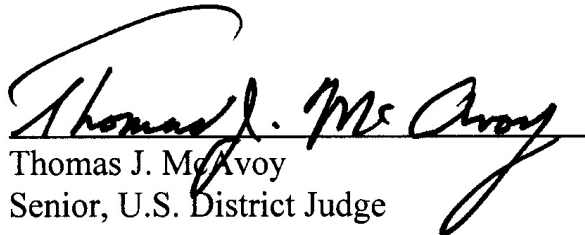
evidence or recommit the matter to the magistrate judge with instructions.” Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Hummel for the reasons stated in the Report-Recommendation.

It is therefore **ORDERED** that Plaintiff’s objections to the Report-Recommendation of Magistrate Judge Hummel, dkt. # 8, are hereby OVERRULED. The Report-Recommendation, dkt. # 3, is hereby ACCEPTED, and the Complaint is hereby **DISMISSED WITH PREJUDICE.**¹

IT IS SO ORDERED.

Dated: April 17, 2018


Thomas J. McAvoy
Senior, U.S. District Judge

¹The Court takes no position on whether Plaintiff could raise identical claims in Brown v. Clinton Correctional Facility no. 9:18cv70, which is assigned to Judge Sharpe. Such questions are not before this Court.