

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

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**VARREL E. MITCHELL,**

**Plaintiff,**

**No. 9:06-cv-00186  
(GLS/DEP)**

**v.**

**VINCENT IGOE, Albany County Sheriff's  
Deputy, et al.,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Varrel E. Mitchell  
*Pro Se*  
03-A-4497  
Livingston Correctional Facility  
P.O. Box 49  
Rt. 36, Sonyea Road  
Sonyea, NY 14556

**FOR DEFENDANT IGOE:**

Office of Robert P. Roche  
36 South Pearl Street  
Albany, NY 12207

**ROBERT P. ROCHE, ESQ.**

**FOR REMAINING DEFENDANTS:**

HON. ANDREW CUOMO  
New York Attorney General

**STEPHEN M. KERWIN, ESQ.**  
Assistant Attorney General

615 Erie Boulevard West  
Suite 102  
Syracuse, NY 13204-2455

**Gary L. Sharpe**  
**U.S. District Judge**

## **MEMORANDUM-DECISION AND ORDER**

### **I. Introduction**

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge David E. Peebles, filed April 28, 2009. (Dkt. No. 57.) The R&R<sup>1</sup> recommended that (1) defendants' motions for summary judgment be granted; (2) Mitchell's complaint be dismissed in its entirety; and (3) Mitchell's cross-motions for summary judgment be denied. Pending are Mitchell's objections to the R&R. (Dkt. No. 58.) For the reasons that follow, the R&R is adopted in its entirety.

### **II. Background**

Varrel E. Mitchell, an inmate at the Coxsackie Correctional Facility, brings this action pursuant to 42 U.S.C. § 1983, alleging that defendants violated his constitutional rights by (1) disseminating details of his

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<sup>1</sup> The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

conviction to DOCS employees and inmates within the Coxsackie facility<sup>2</sup> and (2) interfering with Mitchell's access to the courts by depriving him of the court file stemming from his Albany County conviction. (*See generally* Compl., Dkt. No. 1; *see also* R&R at 7, Dkt. No. 57.) Defendants moved for summary judgment arguing *inter alia* that Mitchell's complaint contained conclusory allegations which lacked factual support and must be dismissed. (*See* Dkt. Nos. 44, 45.) Mitchell filed a response and cross-motions for summary judgment against both sets of defendants. (*See* Dkt. Nos. 51, 52.)

On April 28, 2009, Judge Peebles recommended dismissal of Mitchell's complaint. The court will now review the R&R and the objections raised by Mitchell.

### **III. Standard of Review**

Before entering final judgment, this court routinely reviews all report-recommendations in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and

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<sup>2</sup> Mitchell claims that as a result of defendants' alleged disclosure, he experienced recrimination, and faced a danger of assault and abuse from fellow inmates. He therefore argues that defendants' disclosure amounts to a violation of defendants' Eighth Amendment obligation to protect him from harm. (*See* R&R at 23, Dkt. No. 57.)

recommendations, this court reviews those findings and recommendations de novo. See *Almonte v. N.Y. State Div. of Parole*, No. 04-cv-484, 2006 WL 149049, at \*6-7 (N.D.N.Y. Jan. 18, 2006). In those cases where no party has filed an objection, or only a vague or general objection has been filed, this court reviews the magistrate judge's findings and recommendations for clear error. See *id.*

#### **IV. Discussion**

In recommending dismissal of each of Mitchell's claims, Judge Peebles pointed to an overall lack of evidence to support Mitchell's conclusory allegations. (See R&R at 26-28, 32-34, 35, Dkt. No. 57.) Mitchell's objections to the R&R, which are voluminous and difficult to comprehend, are general and vague in nature. They are essentially an attempt by Mitchell to reargue his case and contradict the R&R by repeating the same type of conclusory allegations asserted in his complaint. (See *generally* Objections, Dkt. No. 58.) Interpreted generously, his objections appear to be that Judge Peebles failed to properly weigh the evidence and failed to treat Mitchell's claims individually. (See, e.g., *id.* at ¶¶ 58, 75, 76, 91, 92, 96.) These objections are without merit. Thus, upon review of each portion of the R&R for clear error, the

court finds no error and adopts Judge Peebles' recommendations in their entirety.

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that Magistrate Judge Peebles' July 10, 2009 Report-Recommendation and Order is adopted in its entirety, whereby:

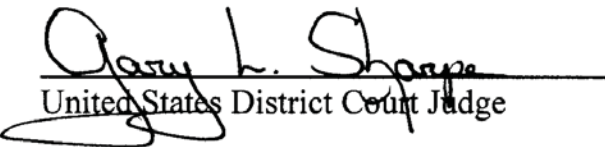
1. Defendants' motions for summary judgment are granted;
2. Mitchell's complaint is dismissed in its entirety; and
3. Mitchell's cross-motions for summary judgment are denied; and it

is further

**ORDERED** that the Clerk provide copies of this Memorandum-Decision and Order to the parties.

**IT IS SO ORDERED.**

Albany, New York  
September 24, 2009

  
United States District Court Judge