UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

JUAN A. RODRIGUEZ,

Plaintiff,

-against-

9:06-CV-0403 (LEK/DRH)

GIL, Sergeant; T. HOWARD, Correctional Officer; DISCIPLINARY HEARING DEPARTMENT; and JOHN DOE, Correctional Officer,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on November 21, 2008, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 32).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Homer's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 32) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendants' Motion for summary judgment (Dkt. No. 29) is **GRANTED** in its entirety; and it is further

ORDERED, that Plaintiff's Amended Complaint (Dkt. No. 7) is **DISMISSED in its entirety**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: January 23, 2009

Albany, New York

Lawrence E. Kahn U.S. District Judge