

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

TIMOTHY HARNETT, a/k/a  
SHAIABDULLAH MUHAMMAD,

Plaintiff,

-v.-

Civil Action No.  
9:07-cv-952 (GLS/RFT)

K.D. TETREAULT, et al.

Defendants.

APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

TIMOTHY HARNETT  
a/k/a SHAIABDULLAH MUHAMMAD  
Plaintiff, *Pro Se*  
01-A-3567  
Upstate Correctional Facility  
P.O. Box 2001  
309 Bare Hill Road  
Malone, New York 12953

**FOR THE RESPONDENT:**

HON. ANDREW M. CUOMO  
Attorney General for the State  
of New York  
The Capitol  
Albany, New York 12224

DOUGLAS J. GOGLIA, ESQ.  
Assistant U.S. Attorney

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

## ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed August 17, 2009. Following ten 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 Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed August 17, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Plaintiff's status as proceeding *in forma pauperis* is revoked because Plaintiff has brought on three or more occasions, actions which have been dismissed under 28 U.S.C. § 1915(g), and because he has not alleged in this action that he is in imminent danger of serious physical injury, and it is further

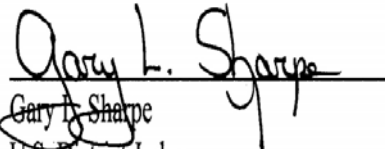
ORDERED, that Plaintiff's Amended Complaint (Dkt. No. 5) is conditionally dismissed until such time as Plaintiff has paid the entire \$350.00 filing fee, and it is further

ORDERED, that if Plaintiff does not submit the \$350.00 filing fee within thirty (30) days from the date of this order, his Complaint will dismissed without further order of the court, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: September 11, 2009  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge