

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

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**MIGUEL FIGUEROA,**

**Plaintiff,**

**v.**

**9:07-CV-1223  
(TJM/GHL)**

**DR. LESTER WRIGHT, M.D.,  
Deputy Commissioner, NYS DOCS; and  
BENJAMIN DARNOBID,  
Physician Assistant, Shawangunk C.F.,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

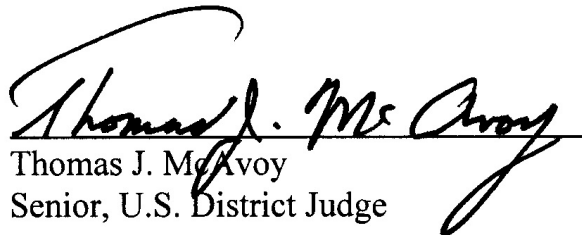
This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. George H. Lowe, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). The Report-Recommendation dated September 16, 2008 recommended that Defendants' motion to dismiss the action be granted and that Defendants' motion for a protective order be denied without prejudice as moot. No objections to the Report and Recommendation have been filed and Plaintiff's time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopts the Report-Recommendation for the reasons stated therein.

It is therefore,

**ORDERED** that Defendants' motion to dismiss the action (dkt. # 13) is **GRANTED** and the action is **DISMISSED**. Further, Defendants' motion for a protective order is **DENIED WITHOUT PREJUDICE** as moot. The Clerk of the Court is instructed to mark this case closed.

**IT IS SO ORDERED**

DATED: March 11, 2009

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