

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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OSMOND K. BROWN,

Plaintiff,

vs

9:08-CV-209

V. BROWN,

Defendant.

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APPEARANCES:

OF COUNSEL:

OSMOND K. BROWN  
Plaintiff, Pro Se  
95-B-1958  
Marcy Correctional Facility  
PO Box 3600  
Marcy, NY 13403

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

CHARLES J. QUACKENBUSH, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff, Osmond K. Brown, brought this civil rights action in February 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated January 19, 2010, the Honorable George H. Lowe, United States Magistrate Judge, recommended that defendant's motion for summary judgment (Docket No. 27) be granted and the complaint be dismissed without prejudice to refiling.

The defendant has filed a letter agreeing with the Report-Recommendation, that this action should be dismissed; however, requests that the issue regarding the plaintiff's alleged "protected speech" be reconsidered. Plaintiff has filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which the parties have objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

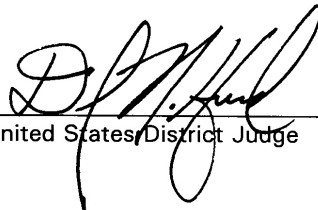
Accordingly, it is

ORDERED that

1. Defendant's motion for summary judgment (Docket No. 27) is GRANTED;
2. The complaint is DISMISSED without prejudice to refile; and
3. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: March 24, 2010  
Utica, New York.

  
United States District Judge