

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALBERTO RESTO,

Plaintiff,

-v.-

Civil Action No.
9:08-cv-929 (GLS/DRH)

OFFICE OF MENTAL HEALTH; UPSTATE
SPECIAL HOUSING UNIT; GEORGE
PATAKI; DOCTOR WURZBERGER; MR.
MARINELLI, Coordinator; and KIM, Unit
Chief,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

ALBERTO RESTO
Plaintiff Pro Se
01-A-0183
Upstate Correctional Facility
Post Office Box 2001
Malone, New York 12953

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed January 7, 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

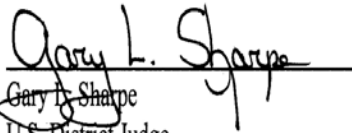
ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed January 7, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Resto's complaint is DISMISSED in its entirety without prejudice pursuant to Fed. R. Civ. P. 16(f)(1)(C) and 37(b) (2)(A)(v) for Resto's failure to comply with the Court's September 2, 2008 order, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

IT IS SO ORDERED

Dated: January 28, 2009
Albany, New York


Gary L. Sharpe
U.S. District Judge