

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID McCHESNEY,

Plaintiff,

vs.

9:08-CV-1186 (NAM/DEP)

**MICHAEL F. HOGAN, Commissioner,
New York State Office of Mental Health,
et al.,**

Defendants.

APPEARANCES:

OF COUNSEL:

DAVID McCHESNEY
25527-604
CNY Psychiatric Center
P.O. Box 300
Marcy, New York 13403
Plaintiff, *pro se*

HON. ERIC T. SCHNEIDERMAN
Office of the Attorney General
State of New York
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The Capitol
Albany, New York 12224
Counsel for Defendants

ADELE TAYLOR-SCOTT, ESQ.
Assistant Attorney General

NORMAN A. MORDUE, U. S. DISTRICT JUDGE

MEMORANDUM-DECISION AND ORDER

The above matter comes to me following a Report-Recommendation (Dkt. No. 49) by Magistrate Judge David E. Peebles, filed July 30, 2012, recommending that this Court grant defendants' motion (Dkt. No. 38) for summary judgment dismissing the sole remaining cause of action in plaintiff's *pro se* civil rights complaint under 42 U.S.C. § 1983. In this cause of action, plaintiff, a convicted sex offender who has been civilly committed to the Central New York

Psychiatric Center for participation in sex offender treatment, alleges that his compulsory participation in the Sex Offender Treatment Program violates his First Amendment rights, because the program is partially based on religious tenets.

In the Report and Recommendation, Magistrate Judge Peebles conducts a thorough and thoughtful review of the Sex Offender Treatment Program materials in light of First Amendment principles, and finds no constitutional infirmity. Plaintiff interposes no objection. The Court adopts the Report and Recommendation in full.

It is therefore

ORDERED that the Report-Recommendation (Dkt. No. 49) is accepted in its entirety; and it is further

ORDERED that the defendants' motion for summary judgment (Dkt. No. 38) is granted and the complaint is dismissed with prejudice; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly; and it is further

ORDERED the Clerk is directed to serve a copy of this Memorandum-Decision and Order on all parties and Magistrate Judge Peebles in accordance with the Local Rules.

IT IS SO ORDERED.

Date: August 23, 2012
Syracuse, New York


Honorable Norman A. Mordue
U.S. District Judge