

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

REGINALD HOLMES,

Plaintiff,

vs.

9:09-CV-437

**DARWIN LECLAIR, Supt., Franklin
Correctional Facility, et al.,**

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation dated October 11, 2012 recommended: (1) Plaintiff's motion for summary judgment (Dkt. #71) be denied; (2) Defendant's motion for summary judgment (Dkt. #74) be granted; and (3) Plaintiff's amended complaint be dismissed in its entirety as to all Defendants.

Plaintiff filed timely objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge in his motion for summary judgment (Dkt. #71) and his motion to stay and/or for extension of time (Dkt. #77). Plaintiff restates his conclusory claims against Defendants and concentrates heavily upon the

denial of his motion to stay and/or for an extension of time, stating this Court in fairness should grant him such relief. Nothing in Plaintiff's Objections show that there is a genuine issue of material fact for trial.

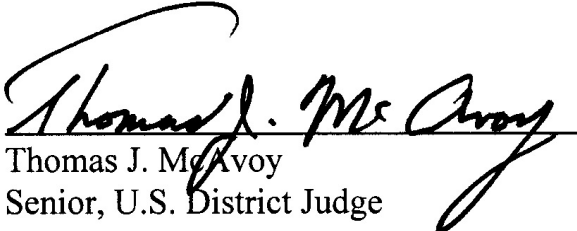
When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept in its entirety the recommendation of Magistrate Judge Baxter for the reasons stated in the Report-Recommendation.

It is therefore **ORDERED** that (1) Plaintiff's motion for summary judgment (Dkt. #71) be **DENIED**; (2) Defendant's motion for summary judgment (Dkt. #74) be **GRANTED**; and (3) Plaintiff's amended complaint be dismissed in its entirety as to all Defendants.

IT IS SO ORDERED.

Dated: November 21, 2012


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