

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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GREGORY FERGUSON,

Plaintiff,

vs

9:09-CV-549

COLE,<sup>1</sup> Correctional Officer, Auburn  
Correctional Facility,

Defendant.

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APPEARANCES:

GREGORY FERGUSON

Plaintiff, Pro Se

95-A-1149

Southport Correctional Facility

Box 2000

Pine City, NY 14871

HON. ERIC T. SCHNEIDERMAN

Attorney General of the

State of New York

Attorney for Defendants

Department of Law

The Capitol

Albany, New York 12224

MICHAEL G. McCARTIN, ESQ.

Asst. Attorney General

DAVID N. HURD

United States District Judge

AMENDED DECISION and ORDER

Plaintiff, Gregory Ferguson, commenced this civil rights action in May 2009, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated January 24, 2011, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended that the

¹ The correct spelling of this defendant's name is "Jody Kowal." The Court will refer to him as such. Dkt. No. 12 at p. 2; Dkt. No. 16 at p. 3.

defendant's motion for summary judgment (Docket No. 21) be granted and that the entire case be dismissed. The plaintiff has filed objections to the report-recommendation.

Based upon a de novo review of the entire file, including the portions of the Report-Recommendation to which plaintiff has objected, and the recommendations of Magistrate Judge Treece, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

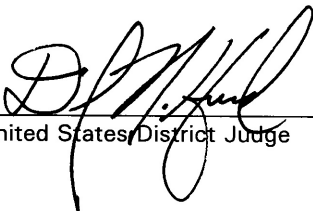
Accordingly, it is

ORDERED that

1. Defendant's motion for summary judgment (Docket No. 21) is GRANTED;
2. Plaintiff's complaint in the above matter is DISMISSED in all respects; and
3. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: February 15, 2011
Utica, New York.


United States District Judge