

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

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**BRANDON MCFADDEN,**

**Plaintiff,**

**- v -**

**9:09-CV-1415**

**SCOTT HERMAN, et al.,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the Report-Recommendation dated October 4, 2010 have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopts the Report-Recommendation for the reasons stated therein.

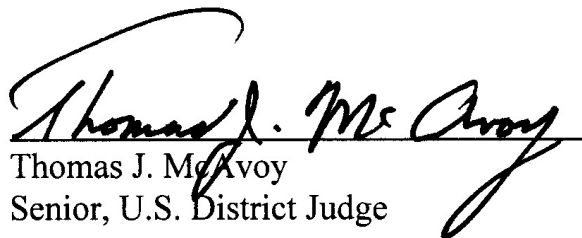
It is therefore,

**ORDERED** that Defendants' Motion pursuant to 28 U.S.C. § 1915(g), seeking to revoke Plaintiff's *in forma pauperis* status and conditionally dismiss the case (Dkt. No. 18)

is DENIED.

**IT IS SO ORDERED**

DATED: January 12, 2011

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