

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSE RODRIGUEZ,

Plaintiff,

-v-

9:10-CV-1122

BAKER, Nurse, Upstate Correctional
Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

JOSE RODRIGUEZ
Plaintiff, pro se
82-A-4529
Upstate Correctional Facility
P.O. Box 2001
309 Bare Hill Road
Malone, NY 12953

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendant
The Capitol
Albany, NY 12224

WILLIAM J. McCARTHY, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On August 2, 2011, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation, that defendant's motion to dismiss pursuant to Federal Rule of

Civil Procedure 12(b)(6) be granted and the case be dismissed. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

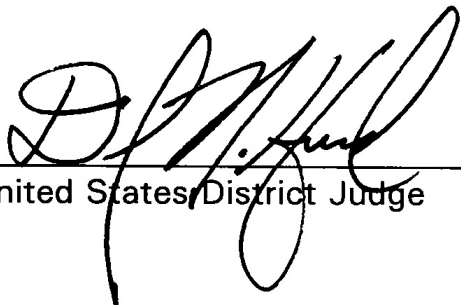
Therefore, it is

ORDERED that

1. Defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED; and
2. The complaint is DISMISSED in its entirety.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: August 24, 2011
Utica, New York.