

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

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**RONALD PHIPPS,**

**Plaintiff**

**v.**

**9:10-CV-1588 (TJM/DEP)**

**DR. SOHAIL A. GILLANI and THE STATE  
OF NEW YORK,**

**Defendants.**

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

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, 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 Magistrate Judge Peebles's January 5, 2012 Report and Recommendation<sup>1</sup> have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice.

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<sup>1</sup>The Report Recommendation is dated January 5, 2011 but was docketed on January 5, 2012. See dkt. # 28. The Court presumes that the year typed on the document was the result of a typographical error.

**II. CONCLUSION**

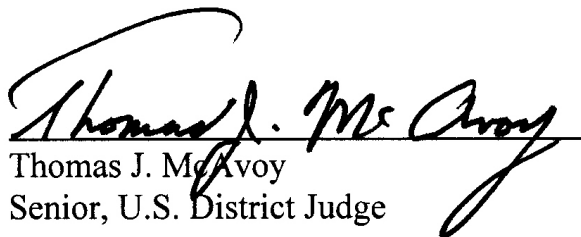
The Court **ADOPTS** the Report and Recommendation [dkt. # 28] for the reasons stated therein. Therefore, it is hereby

**ORDERED** that the motion of Defendant State of New York to dismiss Plaintiff's claims in this action against that defendant (Dkt. No. 23) is **GRANTED**, and all claims against the State of New York are **DISMISSED**; and it is further

**ORDERED** that the motion of Defendant Dr. Sohail Gillani to dismiss Plaintiff's claims against him in this action (Dkt. No. 16) is **DENIED** without prejudice to Defendant's right to raise a defense of qualified immunity in the future.

**IT IS SO ORDERED**

Dated: January 30, 2012

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