

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DEREK JOSEY,

Plaintiff,

-v-

9:11-CV-28 (NAM/TWD)

**DAVID ROCK, P. HEATH, E. RUSSELL, CAPT.
HOLDRIDGE, W. REDMOND, SARAH HICKS,
JANE DOE, DR. THOMPSON, R. RAO, DR.
ADAMS, M.D. LESTER WRIGHT, B. FISCHER,**

Defendants.

APPEARANCES:

Derek Josey, 01-A-5108
Five Points Correctional Facility
Caller Box 119
Romulus, New York 14541
Plaintiff, *pro se*

Hon. Eric T. Schneiderman, Attorney General for the State of New York
Adele M. Taylor-Scott, Esq., Assistant Attorney General
Stephen M. Kerwin, Esq., Assistant Attorney General
The Capitol
Albany, New York 12224
Counsel for Defendants

Hon. Norman A. Mordue, U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff, an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), brought this action under 42 U.S.C. § 1983, alleging a violation of his Eighth Amendment right to adequate medical care. In his complaint (Dkt. No. 1), he alleges that defendants wrongfully discontinued his prescription for Ultram, a pain medication.

Defendants moved (Dkt. No. 37) for summary judgment. Upon referral pursuant to 28

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U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Thérèse Wiley Dancks issued a thorough Report and Recommendation (Dkt. No. 53) setting forth a detailed summary of the record and analyzing the evidence in light of the law applicable to the three groups of defendants: medical personnel, non-medical personnel, and central office personnel. Magistrate Judge Dancks recommends that summary judgment be granted dismissing the complaint in its entirety.

Plaintiff has submitted an objection (Dkt. No. 54). In view of plaintiff's comprehensive objections, pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducts a *de novo* review of all aspects of the Report and Recommendation. Upon *de novo* review, the Court accepts and adopts the Report and Recommendation in all respects.

On April 8, 2013, plaintiff filed a "Motion for Preliminary Injunction" (Dkt. No. 55). To the extent that plaintiff's submission is intended to supplement the claims presently before the Court, it lacks merit for the same reasons that plaintiff's present claims lack merit. To the extent that plaintiff's submission is intended to assert new claims regarding recent events, these claims are not before the Court in this action. Likewise, except for Dr. Thompson, it does not appear that the people of whose conduct he complains in his new submission are before the Court. As for Dr. Thompson, it appears that he gave plaintiff the relief he wanted; in any event, plaintiff's allegations against Dr. Thompson fail to state a claim for medical indifference. Plaintiff's new submission does not assist him in resisting summary judgment, nor does it warrant any injunctive relief.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 53) is accepted and adopted;

and it is further

ORDERED that defendants' motion (Dkt. No. 37) for summary judgment is granted and the case dismissed on the merits in its entirety; and it is further

ORDERED that plaintiff's motion (Dkt. No. 55) is denied; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

DATED: April 10, 2013
Syracuse, New York


Honorable Norman A. Mordue
U.S. District Judge

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