

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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BRIAN TUITT,

9:11-CV-0776  
(DNH/TWD)

Plaintiff,

-v-

P. CHASE, M. LOPEZ, N. BENWARE,  
LIEMUEX, REDEL, JOHN DOES 1-3,

Defendants.

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APPEARANCES:

OF COUNSEL:

BRIAN TUITT, 06-A-1963  
Plaintiff pro se  
Mid-State Correctional Facility  
P.O. Box 2500  
Marcy, NY 13403

HON. ERIC T. SCHNEIDERMAN  
New York State Attorney General  
Attorney for Defendants  
The Capitol  
Albany, NY12224

CHRISTOPHER W. HALL, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Brian Tuitt brought this action pursuant to 42 U.S.C. § 1983. On May 22, 2014, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that plaintiff's equal protection, access to courts, procedural due process, verbal harassment, and conspiracy claims be dismissed without

leave to amend and that defendants be directed to respond to the remaining claims in the amended complaint. Defendants timely filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which defendants objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's equal protection, access to courts, procedural due process, verbal harassment, and conspiracy claims are DISMISSED without leave to amend;

2. Defendants are directed to respond to the following claims in the manner provided for by the Federal Rules of Civil Procedure:

(a) the retaliation claim against defendants Chase and Redel regarding Involuntary Protective Custody placement;

(b) the retaliation claim against defendants Lopez, Benware, and Chase regarding transfer to another facility;

(c) the retaliation claim against defendant Redel regarding access to the law library and a notary;

(d) the retaliation claim against defendant Chase regarding the "SOP" sign;

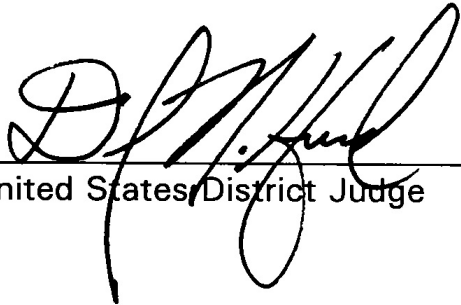
(e) the retaliation claim against defendants Liemuex, Benware, and Chase regarding the magazine incident;

(f) the retaliation claim against defendants Lopez, Benware, and Chase regarding plaintiff's removal from the Sex Offender Counseling and Treatment Program;

(g) the retaliation claim against defendants Lopez and Benware regarding plaintiff's placement in the general population; and

3. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: June 27, 2014  
Utica, New York.