

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

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**SHAWN I. LAINFIESTA,**

**Plaintiff,**

**v.**

**9:11-CV-1099  
(NAM/CFH)**

**LIVERMORE, Block Sergeant,  
Great Meadow Correctional Facility;  
BERNARD WHITTIER, Correction Officer,  
Great Meadow Correctional Facility,**

**Defendant.**

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**APPEARANCES:**

**OF COUNSEL:**

SHAWN I. LAINFIESTA  
95-A-2531  
Eastern New York Correctional Facility  
Box 338  
Napanoch, New York 12458  
Plaintiff, *pro se*

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

JAMES SEAMAN, ESQ.  
Assistant Attorney General

**NORMAN A. MORDUE, U. S. DISTRICT JUDGE**

**ORDER**

The above matter comes to me following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed on the 9<sup>th</sup> day of May 2013. Following fourteen (14) days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-

Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The defendants' motion for summary judgment (Dkt. No. 28) is:

(A) granted as to Lainfiesta's conspiracy claim; and

(B) denied as to Lainfiesta's Eighth Amendment (1) excessive force claims against defendants Livermore and Whittier; (2) medical indifference claim against defendant Livermore; and

(C) Lainfiesta's Fourteenth Amendment claims are dismissed from this action.

3. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case.

**IT IS SO ORDERED.**

Dated: May 31, 2013  
Syracuse, New York



Honorable Norman A. Mordue  
U.S. District Judge