

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**RALPH BUCK PHILLIPS,**

**Plaintiff,**

**v.**

**9:12-CV-59  
(FJS/ATB)**

**DALE ARTUS, Superintendent, sued in personal and official capacity; T. POURPOSE, Correctional Officer, sued in personal and official capacity; R. MOSELY, Correctional Officer, sued in personal and official capacity; C. TRUDEAU, Correctional Officer, sued in personal and official capacity; D. AMO, Food Services Administrator, sued in personal and official capacity; JOHN DOE, Head Cook, sued in personal and official capacity; ROBERT SHATTINGER, Director of Nutritional Services, sued in personal and official capacity; T. BROUSSEAU, I.G.R.C. Supervisor, sued in personal and official capacity; and K. BELLAMY, I.G.P. Director, sued in personal and official capacity,**

**Defendants.**

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**APPEARANCES**

**OF COUNSEL**

**RALPH BUCK PHILLIPS**

**06-B-3437**

Upstate Correctional Facility

P. O. Box 2001

Malone, New York 12953

Plaintiff *pro se*

**OFFICE OF THE NEW YORK STATE**

**ATTORNEY GENERAL**

The Capitol

Albany, New York 12224

Attorneys for Defendants

**KRISTEN M. QUARESIMO, AAG**

**KELLY L. MUNKWITZ, AAG**

**SCULLIN, Senior Judge**

## ORDER

Currently before the Court is Magistrate Judge Baxter's November 12, 2013 Report-Recommendation, in which he recommended that this Court grant Defendants' motion to dismiss with prejudice pursuant to Federal Rules of Civil Procedure 37 and 41(b). *See* Dkt. 46. The parties did not file any objections to this recommendation.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Baxter's November 12, 2013 Report-Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Baxter's November 12, 2013 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

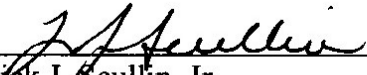
**ORDERS** that Defendants' motion to dismiss Plaintiff's complaint in its entirety with prejudice is **GRANTED** pursuant to Rules 37 and 41(b) of the Federal Rules of Civil Procedure; and the Court further

**ORDERS** that the Clerk of the Court shall enter judgment in favor of Defendants and close this case; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: December 6, 2013  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge