

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL GARCIA,

Plaintiff,

v.

9:12-CV-0924  
(GTS/ATB)

R. FURNIA, Sgt.; Clinton Corr. Facility; and  
DOES, Corr. Officials, Clinton Corr. Facility,

Defendants.

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APPEARANCES:

OF COUNSEL:

MICHAEL GARCIA, No. 17182  
Plaintiff, *Pro Se*  
Seneca County Sheriff's Office  
6190 State Route 96  
Romulus, New York 14541

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

ADRIENNE J. KERWIN, ESQ.  
Assistant Attorney General

GLENN T. SUDDABY, United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* prisoner civil rights action filed by Michael Garcia ("Plaintiff") against the above-captioned individuals ("Defendants"), are Defendants' unopposed motion for partial summary judgment, and United States Magistrate Judge Andrew T. Baxter's Report-Recommendation recommending that Defendants' motion be granted. (Dkt. Nos. 30, 35.) Plaintiff has not filed an Objection to the Report-Recommendation (despite the extension of the deadline by which to do so). (*See generally* Docket Sheet.) After carefully reviewing the relevant filings in this action, the Court can find no clear error in the Report-

Recommendation: Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Court accepts and adopts the Report-Recommendation for the reasons stated therein. (Dkt. No. 35.)

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 35) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

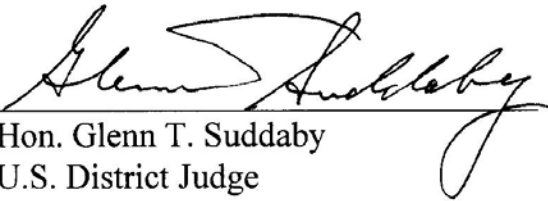
**ORDERED** that Defendants' motion for partial summary judgment (Dkt. No. 30) is **GRANTED**; and it is further

**ORDERED** that Plaintiff's Eighth Amendment claim that he was denied adequate medical care by Defendants is **DISMISSED**; and it is further

**ORDERED** that Pro Bono Counsel be appointed for the Plaintiff for purposes of trial only; any appeal shall remain the responsibility of the plaintiff alone unless a motion for appointment of counsel for an appeal is granted; and it is further

**ORDERED** that upon assignment of Pro Bono Counsel, a final pretrial conference with counsel will be scheduled in this action, at which time the Court will schedule a jury trial for Plaintiff's Eighth Amendment claims of excessive force against Defendant Furnia. Counsel are directed to appear at the final pretrial conference with settlement authority from the parties.

Dated: September 19, 2014  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
U.S. District Judge