

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PAUL SMITH,

Plaintiff,

No. 9:12-CV-1153

-v-

D. ROCK, Superintendent, Upstate Correctional Facility; DONALD UHLER, Deputy of Security, Upstate Correctional Facility; ANCTEL, Lieutenant, Upstate Correctional Facility; FIFIELD, Sergeant, Upstate Correctional Facility; GARY GETTMAN, Sergeant, Upstate Correctional Facility; FIZZAZIO, Officer, Upstate Correctional Facility; MITCHELL, Male Officer, Upstate Correctional Facility; T. RAMSDELL, Officer, Upstate Correctional Facility; THOMPSON, Officer, Upstate Correctional Facility; L. STICKNEY, Education Supervisor, Upstate Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

PAUL SMITH, 00-A-2268
Plaintiff pro se
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953

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

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

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Paul Smith brought this action pursuant to 42 U.S.C. § 1983. On November 27, 2013, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss be granted in part and denied in part. No objections to the Report-Recommendation were filed.

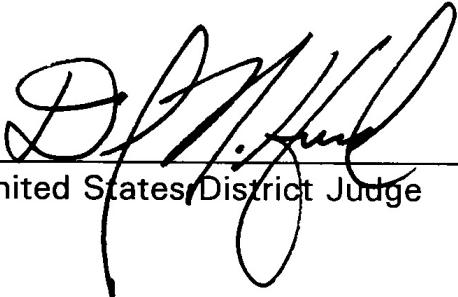
Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED in part and DENIED in part;
 2. All claims against defendants Fifield, Gettman, Fizzazio, Mitchell, Ramsdell, Thompson, and Rock are DISMISSED with leave to amend within thirty (30) days of the date of this Decision and Order;
 3. Defendants Uhler, Anctel, and Stickney are directed to respond to the complaint;
- and
4. The Clerk serve a copy of this Decision and Order upon plaintiff.

IT IS SO ORDERED.


United States District Judge

Dated: December 17, 2013
Utica, New York.