

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

MICHAEL PERKINS,

Plaintiff,

-against-

**9:12-CV-1269
(TJM/TWD)**

DAVID A. ROCK, et al.,

Defendants.

DECISION & ORDER

Thomas J. McAvoy, S.U.S.D.J.:

This action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Honorable Thérèse W. Dancks, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

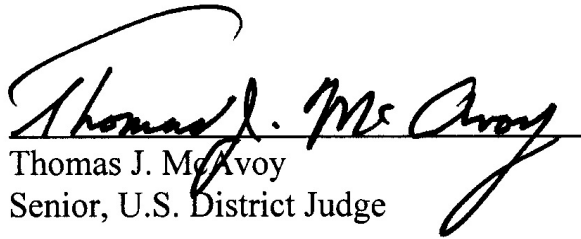
In the Report-Recommendation, Magistrate Judge Dancks recommends that Defendants' motion to dismiss be granted without prejudice and Plaintiff's motion to amend the complaint and two motions for injunctive relief be denied as moot. No objections to the Report-Recommendation dated June 28, 2013 have been filed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

For the foregoing reasons, the Court ADOPTS the Report and Recommendation and allows Plaintiff thirty days to file and serve an Amended Complaint as against the

individual defendants only (i.e., not against Upstate Correctional Facility.). If Plaintiff does not file and serve an Amended Complaint within thirty days of the date of this decision, the Clerk of the Court shall close the file in this matter without further order of the Court.

IT IS SO ORDERED.

Dated: September 5, 2013


Thomas J. McAvoy
Senior, U.S. District Judge