

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

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**PATRICK GUILLORY,**

**Plaintiff,**

**v.**

**9:12-CV-1771  
(FJS/DEP)**

**MAUREEN BOLL, Deputy Commissioner and  
Counsel, Department of Corrections and Community  
Supervision; and B. JOHNSTON, Lieutenant,  
Bare Hill Correctional Facility,**

**Defendants.**

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**APPEARANCES**

**OF COUNSEL**

**PATRICK GUILLORY**

**09-B-0714**

Clinton Correctional Facility

P.O. Box 2002

Dannemora, New York 12929

Plaintiff *pro se*

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**

The Capitol

Albany, New York 12224

Attorneys for Defendants

**KEITH J. STARLING, AAG**

**SCULLIN, Senior Judge**

**ORDER**

Plaintiff commenced this action pursuant to 42 U.S.C. § 1983, alleging deprivation of his civil rights. Specifically, with respect to the two Defendants remaining in this action, Plaintiff asserted that they conspired to, and did, issue him a false misbehavior report in retaliation for his filing grievances and a lawsuit against DOCCS officials.

Following the close of discovery, Defendants filed a motion for summary judgment, *see* Dkt. No. 103, which Plaintiff opposed, *see* Dkt. No. 127. On August 28, 2014, Magistrate Judge Peebles issued a Report and Recommendation, in which he denied Defendants' motion with leave to renew after the close of discovery. *See* Dkt. No. 145. The parties did not file any objections to Magistrate Judge Peebles' 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 that 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 Peebles' August 28, 2014 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Peebles' August 28, 2014 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further


**ORDERS** that Defendants' motion for summary judgment is **DENIED without prejudice to renew** following the completion of discovery; and the Court further

**ORDERS** that this matter is referred to Magistrate Judge Peebles for all further pretrial matters; 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: September 22, 2014  
Syracuse, New York

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