

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RANDY WILLIAMS,

Plaintiff,

v.

9:13-CV-0582
(GTS/DEP)

LANCE LaROCK, Corr. Officer, in His Individual
and Official Capacity; JASON MARLOW, Corr.
Officer, in His Individual and Official Capacity; and
JASON FERRICK, Corr. Officer, in His Individual
and Official Capacity,

Defendants.

APPEARANCES:

OF COUNSEL:

RANDY WILLIAMS

Plaintiff, *Pro Se*

481 Madison Street

Brooklyn, New York 11221

HON. ERIC T. SCHNEIDERMAN

Attorney General for the State of New York

The Capitol

Albany, New York 12224

RICHARD LOMBARDO, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in the above-captioned prisoner civil rights action filed by Randy Williams (“Plaintiff”) against the three above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”), is Chief United States Magistrate Judge David E. Peebles’ Report-Recommendation recommending that Defendants’ motion to dismiss Plaintiff’s Amended Complaint for failure to comply with discovery pursuant to Fed. R. Civ. P. 37 and 41 be denied without prejudice, that Plaintiff be

directed to appear for a properly noticed deposition, and that Plaintiff be warned that, in the event he fails to comply with that directive, his action will be dismissed. (Dkt. Nos. 81, 84.) No party has filed an objection to the Report-Recommendation and the time in which to do so has expired. (*See generally* Docket Sheet.) Based upon a careful review of this matter, the Court can find no clear error in Chief Magistrate Judge Peebles' Report-Recommendation.¹ Chief Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (Dkt. No. 84.) As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons stated therein. (*Id.*)

ACCORDINGLY, it is

ORDERED that Chief Magistrate Judge Peebles' Report-Recommendation (Dkt. No. 84) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

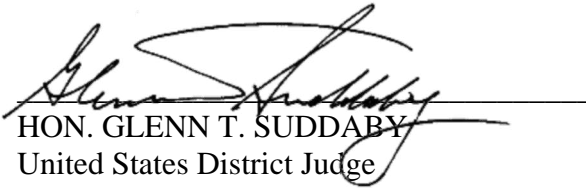
ORDERED that Defendants' motion to dismiss Plaintiff's Amended Complaint for failure to comply with discovery pursuant to Fed. R. Civ. P. 37 and 41 (Dkt. No. 81) is **DENIED** **without prejudice**; and it is further

ORDERED that **Plaintiff shall appear for, and shall participate in**, a properly noticed deposition.

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a "clear error" review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

Plaintiff is warned that, in the event that he fails to comply with the above-stated directive, his action shall be DISMISSED.

Dated: October 25, 2017
Syracuse, New York


HON. GLENN T. SUDDABY
United States District Judge