

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

MATTHEW J. MAYO,

Plaintiff,

v.

**9:13-CV-1240
(FJS/ATB)**

T. PHILLIPS, Sergeant, Upstate Correctional Facility; A. SOUTHWORTH, Correction Officer, Upstate Correctional Facility; L. LABARGE, Correction Officer, Upstate Correctional Facility; RENDLE, Lieutenant, Upstate Correctional Facility; JOHN DOE #1, Correction Officer, Upstate Correctional Facility; DAVID A. ROCK, Superintendent, Upstate Correctional Facility; and JOHN DOE #2, Correction Officer, Upstate Correctional Facility,

Defendants.

APPEARANCES

OF COUNSEL

MATTHEW J. MAYO

11-B-0220

Elmira Correctional Facility

P. O. Box 500

Elmira, New York 14902

Plaintiff *pro se*

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

615 Erie Boulevard West

Suite 102

Syracuse, New York 13204-2455

Attorneys for Defendants

TIMOTHY P. MULVEY, AAG

SCULLIN, Senior Judge

ORDER

Currently before the Court is Magistrate Judge Baxter's January 20, 2015 Report-Recommendation, in which he recommended that this Court grant Defendants' amended motion for summary judgment and dismiss Plaintiff's remaining claims in the complaint in their entirety. *See* Dkt. 39. The parties did not file any objections to this 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 this 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 Baxter's January 20, 2015 Report-Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Baxter's January 20, 2015 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Defendants' amended motion for summary judgment, *see* Dkt. No. 29, is **GRANTED**; and the Court further

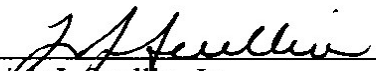
ORDERS that the remaining claims in Plaintiff's complaint are **DISMISSED** in their entirety; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case; 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: February 13, 2015
Syracuse, New York



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