

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ERIC CASEY,

Plaintiff,

-v-

9:13-CV-01271
(DNH/TWD)

M. BROCKLEY, Correctional Officer, Great Meadow Correctional Facility; H. COLVIN, Correctional Officer, Great Meadow Correctional Facility; A. MAYO, Correctional Officer, Great Meadow Correctional Facility; C. GOODRICH, Correctional Officer, Great Meadow Correctional Facility; WANNINGER, Correctional Officer, Great Meadow Correctional Facility; H. CLAPPER, Registered Nurse, Great Meadow Correctional Facility; T. HERMANCE, Registered Nurse, Great Meadow Correctional Facility; BOYCE, Registered Nurse, Great Meadow Correctional Facility; and S. RACETTE, Superintendent, Great Meadow Correctional Facility,

Defendants.

APPEARANCES:

ERIC CASEY
Plaintiff pro se
1881 Pitkin Avenue, Apt. 1C
Brooklyn, NY 11212

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

DAVID N. HURD
United States District Judge

OF COUNSEL:

RYAN E. MANLEY, ESQ.
Ass't Attorney General

DECISION and ORDER

Pro se plaintiff Eric Casey brought this action pursuant to 42 U.S.C. § 1983. On November 9, 2015, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion pursuant to Federal Rule of Civil Procedure 12(b)(6) be granted and that plaintiff's complaint be dismissed without prejudice. The Report-Recommendation was predicated upon the fact that neither party provided information regarding if and when Central Office Review Committee ("CORC") had issued a decision on plaintiff's appeal. 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).

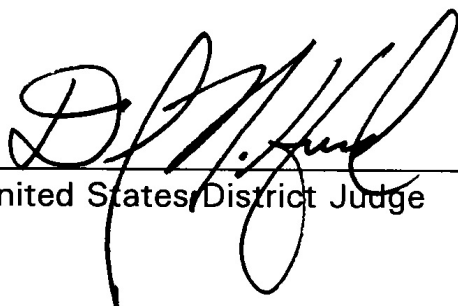
Therefore it is

ORDERED that

1. Defendants' motion is GRANTED;
2. Plaintiff's complaint is DISMISSED without prejudice in its entirety;
3. In the event CORC has rendered a decision on plaintiff's appeal, plaintiff is granted thirty (30) days from the filing of this Decision and Order to refile this suit indicating the outcome of the appeal;
4. However, if within thirty (30) days of the filing of this Decision and Order CORC has not issued a decision, plaintiff's administrative remedies will be deemed unavailable to him and he will be allowed to refile this suit. Plaintiff will have sixty (60) days from the filing of this Decision and Order to file an amended complaint indicating such; and

5. The Clerk of the Court is directed to serve a copy of this Decision and Order on the parties in accordance with the Local Rules. The Clerk is further directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: December 2, 2015
Utica, New York.