

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

AMIN B. BOOKER, a/k/a Amin Booker;
PAUL COLON; and LAWRENCE WILSON,

Plaintiffs,

9:13-CV-1342
(GTS/ATB)

v.

HAROLD GRAHAM, Superintendent, Auburn Corr. Facility; JUSTIN THOMAS, Deputy Superintendent of Programs at Auburn Corr. Facility; GRAFTON ROBINSON, Deputy Superintendent of Security at Auburn Corr. Facility; JOHN DOE #1, Corr. Officer, Auburn Corr. Facility; JOHN DOE #2, Corr. Officer, Auburn Corr. Facility; DONNA MARTIN, Food Serv. Admin. at Auburn Corr. Facility; CAPTAIN FAGAN, Auburn Corr. Facility; ARRIA, Corr. Officer, Auburn Corr. Facility; D. CARPENTER, Corr. Officer, Auburn Corr. Facility; GRIFFIN, Corr. Officer, Auburn Corr. Facility; and STEVENS, Corr. Officer, Auburn Corr. Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

AMIN B. BOOKER, 98-A-6245

Plaintiff, *Pro Se*

Elmira Correctional Facility

Elmira, New York 14902

PAUL COLON, 03-A-5813

Plaintiff, *Pro Se*

Fishkill Correctional Facility

Beacon, New York 12508

LAWRENCE WILSON, 88-C-0777

Plaintiff, *Pro Se*

Wende Correctional Facility

Alden, New York 14004

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General
Counsel for Defendants
The Capitol
Albany, New York 12224

ADRIENNE J. KERWIN, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Amin B. Booker, Paul Colon, and Lawrence Wilson (“Plaintiffs”) against the above-captioned employees of the New York State Department of Corrections (“Defendants”) arising from alleged religious-rights violations while Plaintiffs were inmates at Auburn Correctional Facility in Auburn, New York, are Defendants’ motion to dismiss Plaintiffs’ Amended Complaint for failure to state a claim upon which relief can be granted and United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending that Defendants’ motion to dismiss be denied without prejudice to refiling upon the submission of a properly supported motion for summary judgment. (Dkt. Nos. 186, 194.) None of the parties have filed objections to the Report-Recommendation and the deadline in which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied

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).

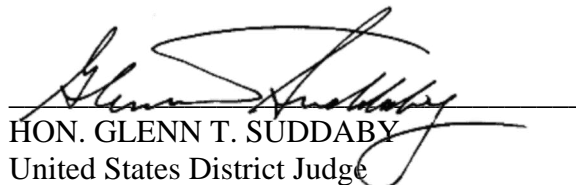
the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein; and Defendants' motion to dismiss is denied without prejudice to refiling upon the submission of a properly supported motion for summary judgment.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 194) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss for failure to state a claim (Dkt. No. 186) is **DENIED** **without prejudice** to refiling upon the submission of a properly supported motion for summary judgment

Dated: April 19, 2016
Syracuse, New York


HON. GLENN T. SUDDABY
United States District Judge