

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

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**ROBERT BENITEZ,**

**Plaintiff,**

**vs.**

**9:13-CV-1404  
(TJM/TWD)**

**TAYLOR, *et al.*,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to 42 U.S.C. § 1983, was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to Magistrate Judge Hummel's Order and Report-Recommendation [dkt. # 17] have been filed, and the time to do so has expired.<sup>1</sup>

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<sup>1</sup>On February 20, 2014, the In Forma Pauperis Order, served on Plaintiff at his last known address at the Great Meadows Correctional Facility, was returned as "undeliverable" and the envelope read "released." The defendants also attempted to serve their answer to the complaint and mandatory disclosure documents, all of which were returned as "undeliverable." Additionally, the Court tried to mail the Pre-Trial Discovery and Scheduling Order, which was also returned as "undeliverable." The Court determined from the DOCCS "Inmate Locator" that Benitez was released from the correctional facility on January 11, 2014.

The plaintiff failed to keep the Court advised of his address or to file any objections to the Report and Recommendation. Every litigant is required to keep the Court advised of his or her address so that

(continued...)

## II. DISCUSSION

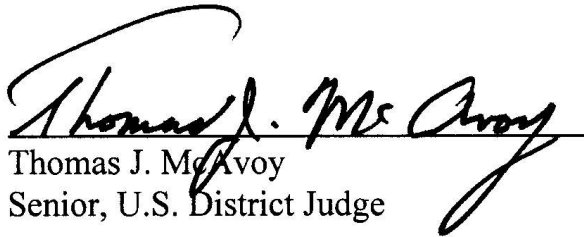
After examining the record, this Court has determined that the Order and Report-Recommendation is not subject to attack for plain error or manifest injustice.

## III. CONCLUSION

Accordingly, the Court **ADOPTS** the Order and Report-Recommendation [dkt. # 17] for the reasons stated therein. Defendants' motion to dismiss [dkt. # 14] is **GRANTED** and the complaint is **DISMISSED for failure to prosecute**. The Clerk may close the file in this matter.

**IT IS SO ORDERED.**

Dated: December 13, 2014

  
Thomas J. McAvoy  
Senior, U.S. District Judge

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<sup>1</sup>(...continued)

documents and decisions may be served upon them by mail. See Local Rules of the United States District Court for the Northern District of New York, 10.1(b), 41. (2) & (b). Failure to do so can greatly delay proceedings and, therefore, can be construed as an abandonment of the action.

Under the circumstances, the Court deems that Plaintiff intentionally failed to file any objections and has abandoned this action.