

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ERVIN CUMMINGS,

Plaintiff,

-against-

9:14-CV-0111 (LEK/TWD)

CLINTON COUNTY LEGISLATURE, *et al.*,

Defendants.

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### ORDER

This matter comes before the Court following a Report-Recommendation filed on August 13, 2014, by the Honorable Thérèse Wiley Dancks, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Dkt. No. 12 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Chylinski v. Bank of Am., N.A.*, 434 F. App’x 47, 48 (2d Cir. 2011); *Barnes v. Prack*, No. 11-CV-0857, 2013 WL 1121353, at \*1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306-07 & n.2 (N.D.N.Y. 2008); see also *Machicote v. Ercole*, No. 06 Civ. 13320, 2011 WL 3809920, at \*2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”).

No objections were filed in the allotted time period. See Docket. Accordingly, the Court has reviewed the Report-Recommendation for clear error. Having found none, the Report-Recommendation is approved and adopted in its entirety.

Accordingly, it is hereby:

**ORDERED**, that the Report-Recommendation (Dkt. No. 12) is **APPROVED and ADOPTED in its entirety**; and it is further

**ORDERED**, that Plaintiff's Application to proceed *in forma pauperis* (Dkt. No. 8) is **GRANTED**; and it is further

**ORDERED**, that Plaintiff's claims against Defendants Clinton County Legislature; Dave Fauro; and Larry Bedard are **DISMISSED with leave to amend**. If Plaintiff wishes to proceed with these claims, he must file, **within thirty (30) days** of the filing date of this Order, an amended complaint that remedies the deficiencies identified in the Report-Recommendation;<sup>1</sup> and it is further

**ORDERED**, that Plaintiff's claims against Defendants Commission of Corrections; Clinton County Sheriff's Department; and Clinton County Jail are **DISMISSED without leave to amend**; and it is further

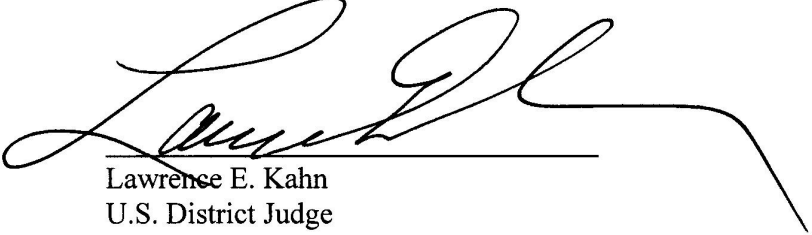
**ORDERED**, that the Clerk of the Court serve a copy of this Order on the parties to this action in accordance with the Local Rules.

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<sup>1</sup>Any amended complaint, which shall supersede and replace the original Complaint in its entirety, must allege claims of misconduct or wrongdoing against each named defendant which Plaintiff has a legal right to pursue, and over which this Court may properly exercise jurisdiction. Any amended complaint must also comply with the pleading requirements of Rules 8 and 10 of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

DATED:      October 16, 2014  
              Albany, New York



Lawrence E. Kahn  
U.S. District Judge