

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PAKENAUTH GEER,

Plaintiff,

No. 9:14-CV-650
(DNH/CFH)

-v-

LT. LEWIS, Washington Correctional Facility;
SERGEANT BROWN, Washington Correctional
Facility; SERGEANT MURPHY, Washington
Correctional Facility; ST. MAIL CLERK WHORF,
Washington Correctional Facility; and B.
MCMILLIAN, Washington Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

PAKENAUTH GEER
Plaintiff Pro Se
05-A-1952
Washington Correctional Facility
Box 180
72 Lock 11 Lane
Comstock, NY 12821

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Pakenauth Geer brought this civil rights action pursuant to 42 U.S.C. § 1983. On December 22, 2014, the Honorable Christian F. Hummel, United States Magistrate Judge, advised by Report-Recommendation that plaintiff's complaint be dismissed for failure to state a claim but that he be permitted to file an amended complaint as to those

claims dismissed without prejudice. No objections to the Report-Recommendation were filed. Plaintiff has since filed an amended complaint.

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

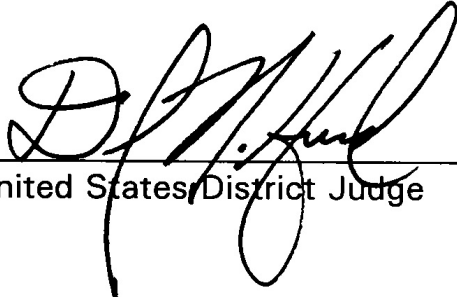
1. Plaintiff's claims that he was denied due process by defendant Lt. Lewis and subjected to excessive force by defendant Sergeant Murphy are DISMISSED WITH PREJUDICE for failure to state a claim;

2. Plaintiff's claims that he was given a false misbehavior report by defendant McMillian and issued an inappropriate penalty by defendant Brown are DISMISSED WITHOUT PREJUDICE for failure to state a claim;

3. Plaintiff's amended complaint, filed on January 12, 2015, is referred back to Magistrate Judge Hummel for further review; and

4. The Clerk serve a copy of this Decision and Order on plaintiff.

IT IS SO ORDERED.


United States District Judge

Dated: January 15, 2015
Utica, New York.