

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

KEITH MCDAY,

Plaintiff,

**9:14-cv-997
(GLS/ATB)**

v.

**CORRECTION OFFICER D.
BUSHEY et al.,**

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Keith McDay
Pro Se
04-A-4724
Great Meadow Correctional Facility
Box 51
Comstock, NY 12821

FOR THE DEFENDANTS:

Hon. Eric T. Schneiderman
New York State Attorney General
The Capitol
Albany, NY 12224

DENISE P. BUCKLEY
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-Recommendation (R&R) by Magistrate Judge Andrew T. Baxter, duly filed

on August 8, 2016. (Dkt. No. 61.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

Plaintiff *pro se* Keith McDay filed objections to the R&R. (Dkt. No. 64.) Throughout his objections, McDay complains that summary judgment was inappropriate because, in his view, he was denied discovery. (*Id.*)¹ The objections are otherwise too conclusory to trigger *de novo* review or merely a rehashing or arguments he raised in opposition to defendants' motion. (*Compare id.*, with Dkt. No. 59, Attach. 2 at 2-4.) Because the R&R is free from clear error, see *Almonte v. N.Y.S. Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *6 (N.D.N.Y. Jan. 18, 2006), it is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Report-Recommendation (Dkt. No. 61) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion for partial summary judgment

¹ While McDay specifically objects that the R&R "fail[ed] to address" his argument that he was "unable to complete discovery," (Dkt. No. 64 at 1), he is simply incorrect. As the R&R notes, the discovery-related issues were raised and addressed before the summary judgment motion was filed. (Dkt. No. 61 at 9 n.3.)

(Dkt. No. 49), is **GRANTED**; and it is further

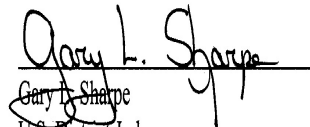
ORDERED that the claims asserted against defendants Patricia Mendofik and Superintendent T. LaValley are **DISMISSED**; and it is further

ORDERED that this case is now deemed trial ready and a trial scheduling order will issue in due course; and it is further

ORDERED that the Clerk shall provide a copy of this Order to the parties in accordance with this court's Local Rules.

IT IS SO ORDERED.

November 9, 2016
Albany, New York


Gary L. Sharpe
U.S. District Judge