

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

JAMES CUDAK,

Plaintiff,

-vs-

9:14-CV-1047
(TJM/ATB)

THOMAS GRIFFEN,

Defendant.

Thomas J. McAvoy, D.J.

DECISION and ORDER

This action, brought pursuant to 42 U.S.C. § 12101 and 29 U.S.C. 794, was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. Plaintiff alleges that the Defendant violated the Americans with Disability Act and Section 504 of the Rehabilitation Act, by denying him, a blind person, the reasonable accommodation of use of a digital player while he was incarcerated.

The Report-Recommendation, dated March 14, 2016, recommended that Defendant's motion for summary judgment be granted and Plaintiff's complaint to be dismissed in its entirety. No objections to the Report-Recommendation have been raised. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopts the

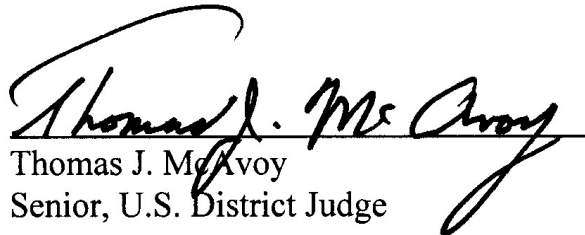
Report-Recommendation and Order for the reasons stated therein.

The Report-Recommendation, dkt. # 25, is hereby adopted, and:

1. The Defendant's motion for summary judgement, dkt. # 22 is hereby **GRANTED**; and
2. The Plaintiff's complaint is hereby **DISMISSED IN ITS ENTIRETY**.

IT IS SO ORDERED.

Dated: May 9, 2016


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