

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANDRE CLARK,

Plaintiff,

9:15-CV-0304
(GTS/DEP)

v.

T. BELL, C.O., Riverview Corr. Facility;
D. MIDDLEMISS, C.O., Riverview Corr. Facility;
T. MACKAY, C.O., Riverview Corr. Facility;
DUVALL, Sgt., Riverview Corr. Facility; and
SERGEANT SOVIE, Riverview Corr. Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

ANDRE CLARK, 12-A-2949
Plaintiff, *Pro Se*
Clinton Correctional Facility
P.O. Box 2001
Dannemora, New York 12929

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendants
615 Erie Boulevard West, Suite 102
Syracuse, New York 13204

KEVIN M. HAYDEN, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Andre Clark (“Plaintiff”) against the above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”) arising from an alleged assault while Plaintiff was an inmate at Riverview Correctional Facility in Ogdensburg, New York, are Defendants’ motion for summary judgment and United States Magistrate Judge David E. Peebles’ Report-Recommendation recommending that because Defendants’ motion for summary

judgment be granted and Plaintiff's Complaint be dismissed in its entirety. (Dkt. Nos. 19, 21.)

None of the parties have filed objections to the Report-Recommendation, and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Peebles' thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendants' motion is granted, and Plaintiff's Complaint is dismissed.

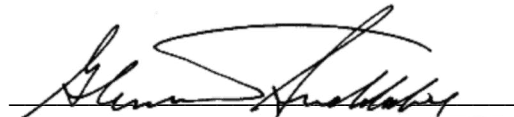
ACCORDINGLY, it is

ORDERED that Magistrate Judge Peebles' Report-Recommendation (Dkt. No. 21) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 19) is **GRANTED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED** in its entirety and the Clerk of the Court shall enter Judgment for Defendants and close this action; and it is further

Dated: August 17, 2016
Syracuse, New York


HON. GLENN T. SUDDABY
Chief United States District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).