

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

BERTRAM PAYNE,

Plaintiff,

**9:15-cv-392
(GLS/TWD)**

v.

C.O. COBURN et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

BERTRAM PAYNE
Plaintiff, *pro se*
303 Vernon Avenue
Apt. #19B
Brooklyn, New York 11206

FOR DEFENDANTS:

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General
The Capitol
Albany, NY 12224

SHANNAN C. KRASNOKUTSKI
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-Recommendation and Order by Magistrate Judge Thérèse Wiley Dancks, duly filed on August 29, 2017. (Dkt. No. 57.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report-Recommendation and Order for clear error, it is hereby

ORDERED that the Report-Recommendation and Order (Dkt. No. 57) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 54) is **DENIED IN PART** and **GRANTED IN PART**; and it is further

ORDERED that summary judgment is **DENIED** to C.O. Coburn, C.O. Cruz and C.O. Friedman on the Eighth Amendment excessive force and failure to intervene claims and that summary judgment is **GRANTED** to defendants on all other claims; and it is further

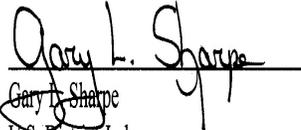
ORDERED that defendants Deputy Supt. Colao, Supt. Larkin, DSH Prack, C.O. Jamil, C.O. Warren, C.O. Carr, Sgt. Milteer, and Sgt. Tschirky are **DISMISSED** from this action; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties

by regular and certified mail.

IT IS SO ORDERED.

September 27, 2017
Albany, New York



Gary L. Sharpe
U.S. District Judge