

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FREDERICK DIAZ,

Plaintiff,

-v-

9:15-cv-776
(DNH/DJS)

STEPHANIE PELO, Grievance Supervisor,
Great Meadow Correctional Facility; C. FRASER,
Sergeant, Great Meadow Correctional Facility;
KENNETH MCKEIGHAN, Industry
Superintendent, Great Meadow Correctional
Facility; RODNEY EASTMAN, Deputy
Superintendent of Security, Great Meadow
Correctional Facility; CHRISTOPHER MILLER,
Superintendent, Great Meadow Correctional
Facility; and RACHEL A. YOUNG, Acting
Director of the Office of Guidance & Counseling,

Defendants.

APPEARANCES:

FREDERICK DIAZ
86-B-2129
Plaintiff pro se
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

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

NICOLE E. HAIMSON, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Frederick Diaz brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 24, 2017, the Honorable Daniel J. Stewart, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss be granted in part and denied in part. Plaintiff timely filed objections to the Report-Recommendation.

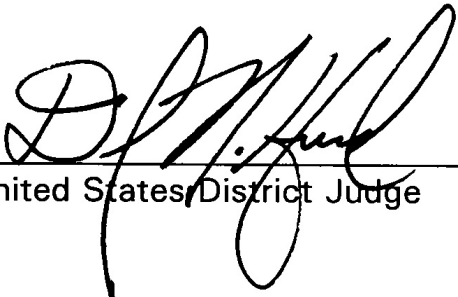
Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion to dismiss is GRANTED in part and DENIED in part;
2. Plaintiff's conspiracy and equal protection claims are DISMISSED as against all defendants;
3. Defendants are directed to file an answer to the Complaint within twenty (20) days of the date of this Decision and Order; and
4. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.


United States District Judge

Dated: April 17, 2017
Utica, New York.

The following claims remain: (1) that defendants Pelo and Young violated plaintiff's due process rights when they deducted \$1,660.20 from his inmate account; (2) that defendants Pelo and Young retaliated against plaintiff when they deducted \$1,660.20 from his inmate account; (3) that defendants Fraser and Eastman retaliated against plaintiff by issuing him a false IPC report; (4) that defendant McKeighan violated plaintiff's due process rights during the IPC and IGRC impeachment hearings; (5) that defendant McKeighan retaliated against plaintiff by affirming his IPC placement; (6) that defendants Eastman and Miller retaliated against plaintiff by upholding his IPC placement; and (7) that defendant Pelo retaliated against plaintiff by issuing him a false misbehavior report.