

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

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**ALPHEAUS DAILEY, JR.,** *also  
known as Alphaeus Dailey, Jr.,*

**Plaintiff,**

**v.**

**9:15-CV-1051 (BKS/TWD)**

**JOSHUA FULLER,** *Deputy formerly  
known as Mr. Foley, et al.,*

**Defendants.**

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**Appearances:**

Alpheaus Dailey, Jr.  
13-B-1253  
Franklin Correctional Facility  
P.O. Box 10  
Malone, NY 12953  
**Plaintiff, pro se**

Carol L. Rhinehart, Esq.  
Onondaga County Department of Law  
John H. Mulroy Civic Center  
421 Montgomery Street, 12<sup>th</sup> Floor  
Syracuse, NY 13202  
**Attorney for Defendants**

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Alpheaus Dailey, Jr., a New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his previous confinement at the Onondaga County Justice Center. Dkt. No. 1. In his complaint, Plaintiff alleges that Defendants Fuller and Irving were deliberately indifferent to his medical needs. Dkt. No. 1. On July 25, 2016, Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56. Dkt. No. 16.

Plaintiff did not file a response to the motion despite having been given notice of the filing deadline and the consequence of failing to respond. Dkt. No. 18. This matter was referred to United States Magistrate Judge Thérèse Wiley Dancks who, on December 5, 2016, issued an Order and Report and Recommendation recommending that Defendants' motion for summary judgment be granted and that the complaint be dismissed in its entirety. Dkt. No. 20. Magistrate Judge Dancks advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 20, p. 25. No objections to the Report and Recommendation have been filed.

As no objections to the Report and Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report and Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report and Recommendation for clear error and found none, the Report and Recommendation is adopted in its entirety.

For these reasons, it is

**ORDERED** that the Report and Recommendation (Dkt. No. 20) is **ADOPTED** in its entirety; and it is further


**ORDERED** that Defendants' motion for summary judgment (Dkt. No. 16) is **GRANTED** and the Complaint (Dkt. No. 1) is dismissed in its entirety; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with

the Local Rules.

**IT IS SO ORDERED.**

**Dated: January 11, 2017**

  
Brenda K. Sannes  
Brenda K. Sannes  
U.S. District Judge