

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EDY RODRIGUEZ,

Plaintiff,

9:15-CV-1079
(GTS/CFH)

v.

J. CROSS, Sergeant, Clinton Corr. Fac.;
R. FURNIA, Sergeant, Clinton Corr. Fac.;
G. FALCON, Corr. Officer, Clinton Corr. Fac.;
and J. ROBERTS, Corr. Officer, Clinton Corr. Fac.,

Defendants.

APPEARANCES:

OF COUNSEL:

EDY RODRIGUEZ, No. 8951602009
Plaintiff, *Pro Se*
Anna M. Kross Center
18-18 Hazen Street
East Elmhurst, New York 11370

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendants
The Capitol
Albany, New York 12224

CHRISTOPHER J. HUMMEL, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Edy Rodriguez (“Plaintiff”) against the four above-captioned employees of the New York State Department of Corrections and Community Supervision at Clinton Correctional Facility in Dannemora, New York (“Defendants”), are Defendants’ motion for summary judgment seeking dismissal of Plaintiff’s Complaint for failure to exhaust his administrative remedies, and United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that

Defendants' motion be granted and that Plaintiff's Complaint be dismissed in its entirety without prejudice.¹ (Dkt. Nos. 26, 40.) Plaintiff has not filed an Objection to the Report-Recommendation despite having received an extension of the filing deadline, which has expired. (Dkt. No. 42.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.² Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (Dkt. No. 40.) As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein; Defendants' motion for summary judgment is granted; and Plaintiff's Complaint is dismissed in its entirety without prejudice.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 40) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 26) is **GRANTED**; and it is further

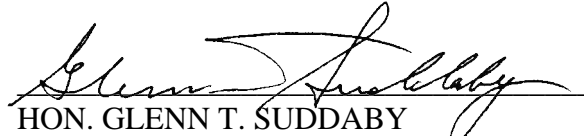
¹ The Court notes that Assistant Attorney General Christopher J. Hummel is of no relation to U.S. Magistrate Judge Christian F. Hummel.

² 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).

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED** in its entirety without prejudice; and it is further

ORDERED that the Clerk of the Court shall enter Judgment for Defendants and close this action.

Dated: June 27, 2017
Syracuse, New York


HON. GLENN T. SUDDABY
Chief United States District Judge