

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

DENNIS BROWN,

Plaintiff,

v.

9:15-CV-01458 (BKS/CFH)

SGT. SMITHEM, *et al.*,

Defendants.

Appearances:

Dennis Brown
96-A-3118
Riverview Correctional Facility
P.O. Box 247
Ogdensburg, NY 13669
Plaintiff, pro se

Denise P. Buckley, Esq.
Hon. Eric T. Schneiderman
Office of New York State Attorney General
The Capitol
Albany, NY 12224
Attorney for Defendants

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

MEMORANDUM-DECISION AND ORDER

Plaintiff Dennis Brown, a New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at Five Points Correctional Facility. Dkt. No. 1. In his Complaint, Plaintiff alleges that the Defendants violated his rights under the First and Eight Amendments. On August 18, 2016, Defendants filed a motion for judgment on the pleadings under Fed. R. Civ. P. 12(c) on the grounds that Plaintiff's Complaint is barred by the statute of limitations. Dkt. No. 34. Plaintiff opposed the

motion. Dkt. No. 45. This matter was referred to United States Magistrate Judge Christian F. Hummel who, on February 28, 2017, issued a Report-Recommendation and Order recommending that Defendants' motion be granted and that this case be dismissed in its entirety. Dkt. No. 54. Magistrate Judge Hummel 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. 54, p. 18.

Following the Report-Recommendation, Plaintiff filed a one-page later letter. Dkt. No. 55. Although the letter does not indicate that Plaintiff intends it to be an objection to the Report-Recommendation, the Court has reviewed it to determine whether, read liberally, it might be so construed. *Id.* In the letter, Plaintiff reiterates the assertions he made in the cover letter to the Complaint, Dkt. No. 1-2, the contents of which he also quoted in his response to the motion to dismiss. Dkt. No. 45, pp. 4, 6-7. Since the letter, even construed liberally, fails to raise a specific objection and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Silva v. Peninsula Hotel*, 509 F. Supp. 2d 364, 366 (S.D.N.Y. 2007) ("If . . . the party . . . simply reiterates her original arguments, the district court reviews the report and recommendation only for clear error." (internal quotation marks omitted)); *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-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 54) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss (Dkt. No. 34) is **GRANTED** and this case **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: March 27, 2017

A handwritten signature in black ink that reads "Brenda K. Sannes". The signature is written in a cursive style with a horizontal line underneath the name.

Brenda K. Sannes
U.S. District Judge