

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

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**JOHN H. WHITE,**

**Plaintiff,**

v.

**9:15-CV-1489 (BKS/ATB)**

**JOHN TATRO, *NYS DOCCS Lieutenant,***

**Defendant.**

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**Appearances:**

**John H. White**

08-A-3366

Southport Correctional Facility

P.O. Box 2000

Pine City, NY 14871

Plaintiff, pro se

**Colleen D. Galligan, AAG**

Hon. Eric T. Schneiderman

Office of New York State Attorney General

The Capitol

Albany, NY 12224

Attorney for Defendant

**Hon. Brenda K. Sannes, U. S. District Judge**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff pro se John H. White brought this action under 42 U.S.C. § 1983 alleging that Defendant John Tatro violated Plaintiff's Fourteenth Amendment due process rights during a disciplinary hearing presided over by Defendant. Dkt. No. 1. On May 5, 2016, Defendant filed

a motion to revoke Plaintiff's *in forma pauperis* status under 28 U.S.C. § 1915(g), and to conditionally dismiss the complaint. Dkt. No. 19. After being given three extensions of time, Plaintiff failed to file a response to the motion. Plaintiff did however, file what has been construed by the Court as a motion for injunctive relief, related to his trouble getting "legal supplies," and a later submission in support of that motion. Dkt. No. 35, 37. Defendant filed a letter opposing Plaintiff's motion for injunctive relief. Dkt. No. 36.

This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on November 28, 2016, issued a Report-Recommendation recommending that Defendant's motion be granted and that Plaintiff's motion for injunctive relief be denied. Dkt. No. 38. On December 16, 2016, Plaintiff filed a letter directed to Magistrate Judge Baxter complaining about his access to supplies. Dkt. No. 39. Plaintiff did not file any other response to the Report-Recommendation.<sup>1</sup>

This Court reviews *de novo* those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.* Since Plaintiff has not objected to Magistrate Judge Baxter's recommendation that Defendant's motion be granted, the Court has reviewed that recommendation for clear error. The Court has considered the letter Plaintiff filed on December 16, 2016, as an objection to the

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<sup>1</sup> Although the letter is dated November 9, 2016, and appears to be sworn to on November 15, 2016, before the November 28th Report-Recommendation, the letter is postmarked on December 14, 2016. Dkt. No. 39. Since Plaintiff did not file any other response to the Report-Recommendation, the Court has considered his letter as an objection to the Report-Recommendation.

recommendation that Plaintiff's motion for an injunction be denied, and has reviewed that recommendation *de novo*. The Court rejects the arguments in Plaintiff's letter for the reasons set forth in the Report-Recommendation. Dkt. No. 38, p. 8. Having reviewed the Report-Recommendation regarding Defendant's motion for clear error and the Report-Recommendation regarding Plaintiff's motion *de novo*, the Court finds no error, and adopts the Report-Recommendation in its entirety for the reasons stated therein.

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 38) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendant's motion to revoke Plaintiff's *in forma pauperis* status and conditionally dismiss the complaint (Dkt. No. 19) is **GRANTED**; and it is further


**ORDERED** that Plaintiff's case be **DISMISSED** without further order unless he pays the entire filing fee of \$350.00 within thirty (30) days of the date of this Order, and it is further

**ORDERED** that Plaintiff's motion for injunctive relief (Dkt. Nos. 35, 37) is **DENIED**; and it is further

**ORDERED** that the Clerk of the Court shall serve a copy of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

**IT IS SO ORDERED.**

Dated: January 12, 2017

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