

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

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**JAMES N. SCOTT,**

**Plaintiff,**

**vs.**

**9:16-CV-403  
(TJM/CFH)**

**D. UHLER, et al.,**

**Defendants.**

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**Thomas J. McAvoy,  
Sr. U.S. District Judge**

**DECISION & ORDER**

The Court referred this 42 U.S.C. § 1983 case, which alleges violations of Plaintiff's First and Fourteenth Amendment rights, to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The April 2, 2018, Report-Recommendation, dkt. # 63, recommends that the Defendants' motion to dismiss Plaintiff's Amended Complaint be granted in part and denied in part. Magistrate Judge Hummel recommends that the motion be granted with respect to Plaintiff's First Amendment and Fourteenth Amendment due process claims, and denied with respect to Plaintiff's Fourteenth Amendment equal protection claim.

Plaintiff filed timely objections to the Report-Recommendation. When objections to a magistrate judge's Report-Recommendation are filed, the Court makes a "*de novo*

determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

Having reviewed the record *de novo* and considered the issues raised in the Plaintiff’s objections, the Court has determined to accept and adopt the recommendation of Magistrate Judge Hummel for the reasons stated in the Report-Recommendation.

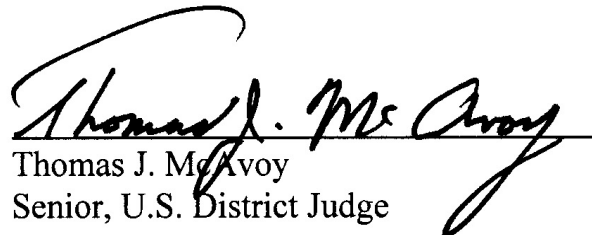
Accordingly,

The Report-Recommendation of Magistrate Judge Hummel, dkt. # 63, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff’s objections, dkt. # 64, are hereby **OVERRULED**. Defendants’ motion to dismiss, dkt. # 60, is hereby **GRANTED** in part and **DENIED** in part, as follows:

1. The motion is **GRANTED** with respect to Plaintiff’s First Amendment claims, and those claims are hereby **DISMISSED**;
2. The motion is **GRANTED** with respect to Plaintiff’s Fourteenth Amendment due process claims, and those claims are hereby **DISMISSED**; and
3. The motion is **DENIED** with respect to Plaintiff’s Fourteenth Amendment equal protection claims.

**IT IS SO ORDERED.**

Dated: June 25, 2018

  
Thomas J. McAvoy  
Senior, U.S. District Judge