

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

ANDRE CANTEY,

Plaintiff,

vs.

**9:16-CV-1008
(TJM/CFH)**

**DANIEL F. MARUSCELLO, Superintendent,
Coxsackie Correctional Facility,**

Defendant.

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

DECISION & ORDER

This *pro se* civil action, brought pursuant to 42 U.S.C. § 1983 and alleging violations of Plaintiff's Eighth and Fourteenth Amendment rights when Defendant deprived him of access to hot water for showering in prison, was referred 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 Report-Recommendation, dated June 8, 2017, recommends that Defendant's motion to dismiss be granted. See *dk.* # 18. The Magistrate Judge concluded that Plaintiff had failed to state a claim that prison conditions violated his constitutional rights.

Plaintiff filed objections to the Report-Recommendation. See *dk.* # 21. When objections to a magistrate judge's Report-Recommendation are lodged, 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.

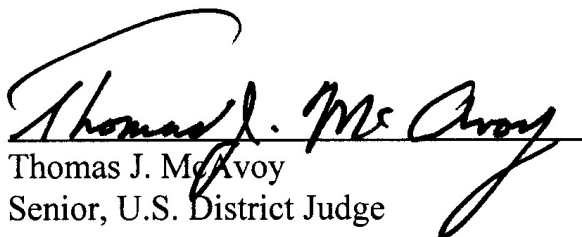
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, the Court has determined to accept and adopt the recommendation of Magistrate Judge Hummel for the reasons stated in the Report-Recommendation.

Therefore, the Plaintiff’s objections to the Report-Recommendation of Magistrate Judge Hummel, Dkt. # 21, are hereby **OVERRULED**. The Report-Recommendation, Dkt. # 18, is hereby **ADOPTED**, and:

1. Defendant’s motion to dismiss, dkt. # 14, is hereby **GRANTED**; and
2. The Clerk of Court is directed to close the case.

IT IS SO ORDERED.

Dated: July 26, 2017


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