

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----

WILLIAM D. THOMAS,

Plaintiff,

-v-

9:17-CV-425  
(DNH/TWD)

KINDERMAN, Deputy Superintendent of  
Programs/Hearing Officer, Marcy Correctional  
Facility and JANOCHOWSKI, Correctional  
Officer, Marcy Correctional Facility,

Defendants.

-----

APPEARANCES:

OF COUNSEL:

WILLIAM D. THOMAS  
Plaintiff pro se  
13-A-2123  
Auburn Correctional Facility  
P.O. Box 618  
Auburn, NY 13021

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorney for Defendants  
615 Erie Boulevard West  
Suite 102  
Syracuse, NY 13204

TIMOTHY P. MULVEY, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff William D. Thomas brought this civil rights action pursuant to 42 U.S.C. § 1983. On December 4, 2017, the Honorable Therese Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion for summary

judgment be granted in part and denied in part. Specifically, Magistrate Judge Dancks recommended that summary judgment be granted as to defendant Janochowski and denied as to defendant Kinderman. No objections to the Report-Recommendation were filed. However, plaintiff later filed a letter requesting to "dismiss my active cases, and not hold it against me." ECF No. 31.

Based upon a careful review of the Report-Recommendation, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1). Plaintiff's complaint will be dismissed as against defendant Janochowski with prejudice for the reasons explained in the Report-Recommendation, leaving only plaintiff's due process claim against defendant Kinderman. Per plaintiff's request to voluntarily withdraw his case, his due process claim against defendant Kinderman will be dismissed without prejudice at this time subject to refiling.

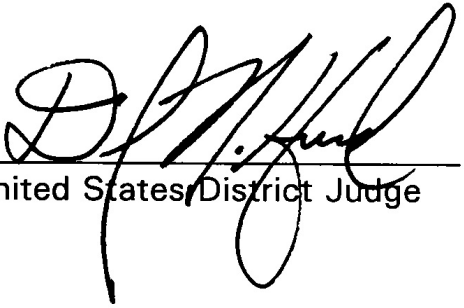
Therefore, it is

ORDERED that

1. Defendants' motion for summary judgement is GRANTED as to defendant Janochowski and the complaint against him DISMISSED with prejudice;
2. Defendants' motion for summary judgement is DENIED as to defendant Kinderman; and
3. Plaintiff's request to withdraw his remaining claim against defendant Kinderman is GRANTED and the complaint against defendant Kinderman is DISMISSED without prejudice.

The Clerk is directed to close the file.

IT IS SO ORDERED.



---

United States District Judge

Dated: March 22, 2018  
Utica, New York.