

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DELVILLE BENNETT,

Plaintiff,

9:17-CV-0849
(GTS/CFH)

v.

THOMAS A. JIGUERE, Officer, Franklin Corr. Fac.; and
ROBERT J. McGRATH, Officer, Franklin Corr. Fac.,

Defendants.

APPEARANCES:

OF COUNSEL:

DELVILLE BENNETT

Plaintiff, *Pro Se*

c/o Bobo Bergen House

1173 Bergen Street

Brooklyn, New York 11213

HON. LETITIA A. JAMES

Attorney General for the State of New York

Counsel for Defendants

26 Liberty Street

New York, New York 10005

ERIK BOULE PISONNAULT, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Delville Bennett (“Plaintiff”) against Thomas A. Jiguere (“Defendant Jiguere”) and Robert J. McGrath (“Defendant McGrath”), are (1) Defendant McGrath’s motion for summary judgment, and (2) United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that Defendant McGrath’s motion be granted in its entirety and that Plaintiff’s claims against Defendant McGrath be dismissed. (Dkt. Nos. 65, 74.) None of the parties have filed an

objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendant McGrath’s motion for summary judgment is granted in its entirety, and Plaintiff’s claims against Defendant McGrath are dismissed.

ACCORDINGLY, it is


ORDERED that Magistrate Judge Hummel’s Report-Recommendation (Dkt. No. 74) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendant McGrath’s motion for summary judgment (Dkt. No. 65) is **GRANTED**; and it is further

ORDERED that those of Plaintiff’s claims in his Second Amended Complaint (Dkt. No. 26) that are asserted against Defendant McGrath are **DISMISSED with prejudice**, and the Clerk of the Court shall **TERMINATE** Robert J. McGrath as a Defendant in this action.

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a “clear error” review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

Dated: February 21, 2020
Syracuse, New York



Hon. Glenn T. Suddaby
Chief U.S. District Judge