

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**
MICHAEL RESTO-OTERO,

Plaintiff,

**9:17-cv-1115
(GLS/DEP)**

v.

IMAM MOHAMMAD,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF

MICHAEL RESTO-OTERO

Plaintiff *Pro Se*

10-B-1849

Auburn Correctional Facility

P.O. Box 618

Auburn, NY 13021

FOR DEFENDANTS:

HON. BARBARA D. UNDERWOOD

New York Attorney General

The Capitol

Albany, NY 12224

DAVID A. ROSENBERG

Assistant Attorney General

Gary L. Sharpe

Senior District Judge

ORDER

The above-captioned matter comes to this court following a Report and Recommendation by Magistrate Judge David E. Peebles duly filed on October 3, 2018. (Dkt. No. 26.) Following fourteen days from the service

thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report and Recommendation for clear error, it is hereby

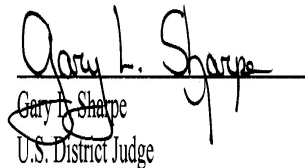
ORDERED that the Report and Recommendation (Dkt. No. 26) is **ADOPTED** in its entirety; and it is further

ORDERED that defendant's motion to dismiss (Dkt. No. 21) is **DENIED**; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules.

IT IS SO ORDERED.

November 5, 2018
Albany, New York


Gary L. Sharpe
U.S. District Judge