

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

DEREK A. HEYLIGER,

Plaintiff,

vs.

**9:18-CV-336
(TJM/TWD)**

**KARIN WEST, Inmate Correspondence
Officer/Mail Room Employee, and
TOM FORBES, Business Officer Administrator,**

Defendants.

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

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Thérèse Wiley Dancks for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that Defendants, staff at the Great Meadow Correctional Facility in Comstock, New York, violated his constitutional rights by denying him access to the courts and interfering with his legal mail.

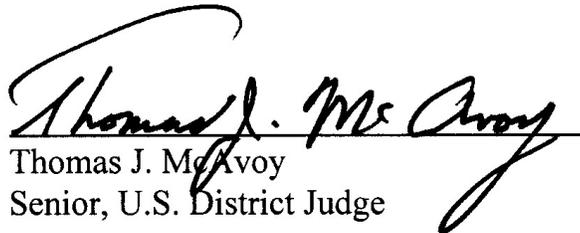
After the parties engaged in discovery and motion practice, the Defendants filed a motion for summary judgment. Judge Dancks's Report-Recommendation, dkt. # 74, issued on May 21, 2022, recommends that the Court deny Defendants' motion for summary judgment. Questions of fact exist, Judge Dancks concludes, which permit a jury to determine whether Defendants deliberately and maliciously prevented Plaintiff from

timely filing a claim with the New York Court of Claims. A jury should also decide whether Plaintiff suffered injury by failing to file that claim, she finds. Judge Dancks also holds that a jury could also conclude that Defendants intentionally interfered with Plaintiff's legal mail several times in a manner that chilled his access to the courts.

No party objected to the Report-Recommendation, and the time for such objection has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

The Report-Recommendation of Magistrate Judge Dancks, dkt. # 74 is hereby **ACCEPTED** and **ADOPTED**. Defendants' motion for summary judgment, dkt. # 68, is hereby **DENIED**.

IT IS SO ORDERED.


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

Dated: July 29, 2022