

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHARLES J. SMITH,

Plaintiff,

-v-

9:18-CV-1107
(DNH/DJS)

JAYNES, Corrections Officer,

Defendant.

APPEARANCES:

OF COUNSEL:

CHARLES J. SMITH
Plaintiff pro se
96-A-6765
Greene Correctional Facility
P.O. Box 975
Coxsackie, NY 12051

HON. LETITIA JAMES
Attorney General for the State of New York
Attorney for Defendant
The Capitol
Albany, NY 12224

ERIK BOULE PINSONNAULT, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Charles J. Smith brought this civil rights action pursuant to 42 U.S.C. § 1983. On February 4, 2020, the Honorable Daniel J. Stewart, United States Magistrate Judge, advised by Report-Recommendation that defendant's motion for summary judgment in lieu of answer be denied without prejudice. Plaintiff timely filed objections to the Report-

Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

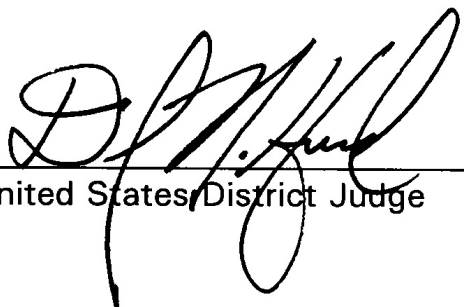
Therefore, it is

ORDERED that

1. Defendant's motion for summary judgment in lieu of answer is DENIED WITHOUT PREJUDICE; and

2. Defendant is directed to answer the sole First Amendment retaliation claim in plaintiff's Complaint within twenty (20) days of the date of this Decision and Order.

IT IS SO ORDERED.



United States District Judge

Dated: March 9, 2020
Utica, New York.