

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DESEAN HILL,

Plaintiff,

-v-

9:18-CV-1203
(DNH/TWD)

ANTHONY ANNUCCI, Acting Commissioner;
ANNE M. MCGRATH, Associate Commissioner;
KATHLEEN GREY, OMH Therapist, Great
Meadow Correctional Facility; MR. JACKSON,
OMH Unit Chief, Great Meadow Correctional
Facility; MR. MILLER, Superintendent, Great
Meadow Correctional Facility; and M.
BERNARD, Guidance Staff, Great Meadow
Correctional Facility, formerly known as Jane
Doe,

Defendants.

APPEARANCES:

OF COUNSEL:

DESEAN HILL
Plaintiff pro se
14-A-0857
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953

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

NICHOLAS LUKE ZAPP, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Desean Hill brought this civil rights action pursuant to 42 U.S.C. § 1983. On November 25, 2019, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss be granted in part and denied in part. Specifically, Magistrate Judge Dancks recommended that defendants' motion be granted as to defendants Annucci, Jackson, and Miller, and denied as to defendants McGrath, Grey, and Bernard. No objections have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

While the Report-Recommendation was pending, plaintiff filed a request for injunctive relief relating to his transfer to Great Meadow Correctional Facility where he alleges he was seriously assaulted by an unknown inmate in 2017. Plaintiff's motion was received by the Court on February 20, 2020. On March 2, 2020, the Court received a change of address from plaintiff indicating he is now incarcerated at Upstate Correctional Facility. As a result of this recent transfer to Upstate Correctional Facility, plaintiff's request for injunctive relief relating to Great Meadow Correctional Facility is now moot.

Therefore, it is

ORDERED that

1. Defendants' motion to dismiss is GRANTED in part and DENIED in part;
2. Defendants' motion to dismiss is GRANTED as to defendants Annucci, Jackson, and Miller and all claims against them are DISMISSED WITHOUT PREJUDICE;
3. Defendants' motion to dismiss is DENIED as to defendants McGrath, Grey, and

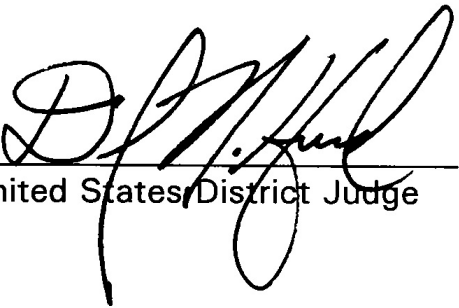
Bernard;

4. Defendants McGrath, Grey, and Bernard are directed to answer the sole failure to protect claim against them within twenty (20) days of the date of this Decision and Order;

and

5. Plaintiff's request for injunctive relief is DENIED as moot.

IT IS SO ORDERED.



United States District Judge

Dated: March 9, 2020
Utica, New York.