

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

FELIPE PEREZ,

Plaintiff,

vs.

**9:19-CV-722 [LEAD]
(TJM/DJS)**

MR. COLON, et al.,

Defendants.

FELIPE PEREZ,

Plaintiff,

vs.

**9:19-CV-824 [MEMBER]
(TJM/DJS)**

MR. CARTER, et al.,

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 Daniel J. Stewart for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that Defendants, Corrections Officers, violated his constitutional rights in a number of ways while was incarcerated at Marcy Correctional Facility in Marcy, New York.

Magistrate Judge Stewart's Report-Recommendation, dkt. # 37, issued on June 16,

2020, recommends that Defendants' motion for summary judgment be granted.

Magistrate Judge Stewart finds that Plaintiff failed to exhaust his administrative remedies before bringing his claim, as required by federal law. Plaintiff did not respond to the motion, and the evidence produced by the Defendants establishes that Plaintiff filed only one grievance addressing one event, though several incidents are in question.

Administrators denied the grievance. He did not appeal that denial. Under those circumstances, Magistrate Judge Stewart finds, Plaintiff has not satisfied the exhaustion requirement in the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), and his claim must be dismissed. He recommends granting the Defendants' motion and dismissing the case on that basis. Noting that mail to the Plaintiff at his last known address, Sing-Sing Correctional Facility in Ossining, New York, has been returned with the notation "released," Magistrate Judge Stewart recommends in the alternative that the Court dismiss the case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41. Plaintiff did not fulfill his obligation to keep the Court updated as to his address, Magistrate Judge Stewart finds.

Plaintiff did not object to the Report-Recommendation, and the time for such objections 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.

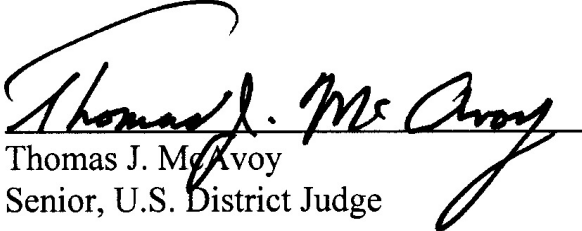
Accordingly,

The Report-Recommendation of Magistrate Judge Stewart, dkt. # 37, is hereby **ACCEPTED** and **ADOPTED**. Defendants' motion for summary judgment, dkt. # 28, is

hereby **GRANTED**, and the Complaint is **DISMISSED**. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: August 6, 2020


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