

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

---

DONALD BOWENS,

Plaintiff,

-v-

ORDER  
06-CV-0457A(Sr)

M.E. POLLOCK, et al.,

Defendants.

---

---

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(A). Defendants filed motions for summary judgment (Dkt. ##31 and 51), and plaintiff filed a motion for summary judgment (Dkt. #45.) On October 12, 2010, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that:

1. Defendants' motion for summary judgment on plaintiff's claim pursuant to Title 42, United States Code, Section 1981 be granted;
2. Defendants' motion for summary judgment on plaintiff's retaliation claim (Housing Unit Transfer) be denied;
3. Defendants' motion for summary judgment on plaintiff's retaliation claim (Misbehavior Report) be denied;
4. Defendants' motion for summary judgment on plaintiff's retaliation claim (Determination of Appropriate Disciplinary Tier) be granted;

5. Defendants' motion for summary judgment on plaintiff's retaliation claim (Removal from Law Library Job) be granted;

6. Defendant's motion for summary judgment on plaintiff's retaliation claim (Timely Resolution of Grievances) be granted;

7. Defendants' motion for summary judgment on plaintiff's access to the courts claim be granted;

8. Defendants' motion for summary judgment on plaintiff's due process claim be denied;

9. Defendants' motion for summary judgment on plaintiff's sufficiency of due process (disciplinary hearing) be granted;

10. Defendants' motion for summary judgment on plaintiff's equal protection claim be granted;

11. Defendants' motion for summary judgment based on lack of personal involvement of defendants Hunt, Kruppner, Krempasky, Bartlett, Keller and Kelsay be granted;

12. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1983 be granted;

13. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1985(3) be granted;

14. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1986 be granted; and

15. Plaintiff's motion for summary judgment be denied in all respects.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation:

1. Defendants' motion for summary judgment on plaintiff's claim pursuant to Title 42, United States Code, Section 1981 is granted;
2. Defendants' motion for summary judgment on plaintiff's retaliation claim (Housing Unit Transfer) is denied;
3. Defendants' motion for summary judgment on plaintiff's retaliation claim (Misbehavior Report) is denied;
4. Defendants' motion for summary judgment on plaintiff's retaliation claim (Determination of Appropriate Disciplinary Tier) is granted;
5. Defendants' motion for summary judgment on plaintiff's retaliation claim (Removal from Law Library Job) is granted;

6. Defendant's motion for summary judgment on plaintiff's retaliation claim (Timely Resolution of Grievances) is granted;

7. Defendants' motion for summary judgment on plaintiff's access to the courts claim is granted;

8. Defendants' motion for summary judgment on plaintiff's due process claim is denied;

9. Defendants' motion for summary judgment on plaintiff's sufficiency of due process (disciplinary hearing) is granted;

10. Defendants' motion for summary judgment on plaintiff's equal protection claim is granted;

11. Defendants' motion for summary judgment based on lack of personal involvement of defendants Hunt, Kruppner, Krempasky, Bartlett, Keller and Kelsay is granted;

12. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1983 is granted;

13. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1985(3) is granted;

14. Defendants' motion for summary judgment on plaintiff's conspiracy claim pursuant to Title 42, United States Code, Section 1986 is granted; and

15. Plaintiff's motion for summary judgment is denied in all respects.

This case is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

---

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: January 18, 2011