

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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GREBORY MILES, #04-A-1587,

Plaintiff,

v.

**ORDER**  
11-CV-671S

LIEUTENANT LEVAC; C.O. C. CARROLL, and  
C.O. NULL,

Defendants.

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1. On August 10, 2011, Plaintiff commenced this action *pro se* pursuant to 42 U.S.C. § 1983 against various employees of the New York State Department of Corrections and Community Supervision. Defendants moved for summary judgment dismissing the complaint against them on May 10, 2013.

2. On May 14, 2013, this Court referred this matter to the Honorable Jeremiah J. McCarthy, United States Magistrate Judge, to hear all dispositive motions and file a report and recommendation containing findings of fact, conclusions of law and a recommended disposition of such motions pursuant to 28 U.S.C. § 636(b)(1)(B) and (C).

3. Judge McCarthy filed a Report and Recommendation on Defendants' summary judgment motion on January 27, 2014, in which he recommended that Defendants' motion be granted to the extent it sought dismissal of Plaintiff's deliberate indifference claim (if any), but otherwise denied. Judge McCarthy also denied Plaintiff leave to file a second amended complaint.

4. No objections to the Report and Recommendation were received from any party within fourteen (14) days from the date of its service, as required by 28 U.S.C.

§ 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure of this Court.

IT HEREBY IS ORDERED, that this Court ACCEPTS Judge McCarthy's Report and Recommendation (Docket No. 47) in its entirety;

FURTHER, that Defendants' motion for summary judgment (Docket No. 32) is GRANTED IN PART and DENIED IN PART.

SO ORDERED.

Dated: March 30, 2014  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court