

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID AUGUST GAMBINO,

Plaintiff,

v.

ORDER  
12-CV-824

CAPTAIN PAYNE, et al.,

Defendants.

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The instant case, involving various civil rights claims, was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. §636(b)(1). Plaintiff, who is proceeding *pro se*, alleges that he is a recent convert to Judaism and that while in custody defendants exposed his body in violation of his religious beliefs. Plaintiff alleges failure to protect, deliberate indifference to medical needs, and that he was subject to corporal punishment as well as sexual misconduct. Plaintiff filed motions for various forms of injunctive relief (Dkt. Nos. 31, 32, 34), a motion to preserve records (Dkt. No. 33), and a motion for a copy of his transcript (Dkt. No. 49). Defendants filed a motion to compel plaintiff to execute authorizations for records for discovery purposes. (Dkt. No. 41).

On December 24, 2014, Magistrate Judge Scott issued a Report and Recommendation ordering that defendants' motion to compel be granted and plaintiff's motion for a copy of his transcript denied as moot. (Dkt. No. 68). The Magistrate Judge further recommended that plaintiff's motions for injunctive relief

and motion to preserve records be denied. *Id.* Plaintiff filed objections on January 12, 2015 (Dkt. No. 73), and defendants filed a response on January 26, 2015 (Dkt. No. 74). The Court then deemed the matter submitted without oral argument.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those dispositive portions of the Report and Recommendation to which objections have been made. With respect to the Magistrate Judge's determination as to the non-dispositive motions, modification is only appropriate if the appealed from decision is clearly erroneous or contrary to law. See 28 U.S.C. §636(b)(1)(A). Upon review, and after reviewing the submissions from the parties, the Court hereby adopts the Magistrate Judge's recommendations and findings in their entirety.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion to compel is granted (Dkt. No. 41) and plaintiff's motion for a copy of his deposition transcript is denied as moot (Dkt. No. 49). In addition, plaintiff's various motions for injunctive relief as well as his motion for preservation of records are denied (Dkt. Nos. 31, 32, 34 and 33).

The matter is remanded to Magistrate Judge Scott for further proceedings.

SO ORDERED.

*Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: April 21, 2015