

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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CURTIS MIDDLEBROOKS,

Plaintiff,

v.

**DECISION AND ORDER**  
15-CV-1054-A

SUPERINTENDENT M. BRADT, et al.,

Defendants.

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This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1) for the conduct or pretrial proceedings. On December 13, 2016, Magistrate Judge Scott filed a Report and Recommendation (Dkt. No. 17), recommending that defendants' motion for summary judgment (Dkt. No. 8) be granted as to claims arising under the first two of three grievances that are the subjects of the action, and denied as to claims arising under the third grievance.

On December 29, 2016, *pro se* plaintiff Curtis Middlebrooks filed objections to the Report and Recommendation. Dkt. No. 18. Defendants filed a response on January 13, 2017 (Dkt. No. 20), and plaintiff filed a reply on January 23, 2017. Dkt. No. 21. The matter was deemed submitted because no oral argument was required.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation (Dkt. No. 17) to which objections have been made. Upon *de novo* review, and after reviewing the submissions from the parties, the Court hereby adopts Magistrate Judge Scott's findings and conclusions.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion for summary judgment is granted as to claims arising under the first and second grievances, and denied as to claims arising under the third grievance. The action is recommitted to Magistrate Judge Scott pursuant to the October 21, 2016 Text Order Referring Case. Dkt. No. 9.

**IT IS SO ORDERED.**

*Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: February 1, 2017