

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

FINBAR McGARRY,
Plaintiff,

v.

File No. 1:09-cv-128

ANDREW PALLITO, GREG HALE,
RICHARD BYRNES, RICHARD GALLOW,
JOE WOLSKE, JOHN CANNON,
CO FORCIER, SHERYLYN MATTHANS,
JEFF COBB, PAUL CROSS,
SAMUEL SANTOS, MICHAEL LIFF,
VARIOUS TURNKEYS,
EVELYN CUSHING, VARIOUS
LAWYERS, WILLIAM SORRELL,
STATE OF VERMONT,
Defendants.

ORDER

The Magistrate Judge's Report and Recommendation was filed May 22, 2013. (Doc. 57.) After de novo review and absent objection, the Report and Recommendation ("R&R") is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Defendants' Motion to Dismiss for failure to allege physical injury (Doc. 54) is DENIED. In addition, Defendants' Motion to Dismiss on the basis of personal involvement (Doc. 54) is GRANTED with respect to Defendants Sorrell, Cannon, "CO Forcier," Santos, Liff and "Various Attorneys," but is DENIED as it relates to all remaining Defendants.

In adopting the R&R, the Court has determined Plaintiff has alleged sufficient facts to withstand the motion to dismiss and is entitled to offer evidence to support his claim. The Court has made no factual determinations.

This matter is returned to the Magistrate Judge for further proceedings.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2nd day of July, 2013.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha
United States District Judge