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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

KYLE ROOT,	:	
Plaintiff,	:	
v.	:	**File No. 1:12-cv-70-jgm**
ANDREW PALLITO, Commissioner, Vermont Department of Corrections,	:	
Defendant.	:	

ORDER

The Magistrate Judge's Report and Recommendation was filed October 2, 2012. (Doc. 11.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Defendants' Motion to Dismiss (Doc. 9) is GRANTED and the case is DISMISSED without prejudice. Plaintiff shall be allowed thirty days to file an Amended Complaint. Failure to file an Amended Complaint on or before December 5, 2012 shall result in the dismissal of this case with prejudice.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 5th day of November, 2012.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
United States District Judge

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