

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD LIGHTHALL,

Plaintiff,

- v -

9:04-CV-0721

DR. KRISHNA KUMAR VADLAMUDI, Director of Medical Services at Marcy Correctional Facility, WILLIAM LAPE, Superintendent of Marcy Correctional Facility, BARBARA SCHULTZ-INMAN, Corrections Counselor at Marcy Correctional Facility, J.E. ROWLANDS, Senior Alcohol and Substance Abuse Counselor at Marcy Correctional Facility, and LESTER WRIGHT, Associate Commissioner of Health Services, New York State Department of Correctional Services,

Defendants.

APPEARANCES:

RICHARD LIGHTHALL
Plaintiff, *Pro Se*

HON. ELIOT SPITZER
Attorney General for the State of New York
BRUCE J. BOIVIN, ESQ.
Assistant Attorney General
The Capitol
Albany, New York 12224
Attorney for Defendants

Hon. Norman A. Mordue, D.J.:

MEMORANDUM-DECISION AND ORDER

In his *pro se* amended complaint (Dkt. No. 10) in this action under 42 U.S.C. § 1983, plaintiff, an inmate of New York State Department of Correctional Services (“DOCS”), alleges violations of the Eighth Amendment, Due Process and Equal Protection under the Fourteenth Amendment, 42 U.S.C. § 1985, the American with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §

12101, et seq., and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

Presently before the Court are the following motions: (1) plaintiff seeks a preliminary injunction to have the Defendants provide medical treatment, to receive reasonable accommodations for his attendance at the Alcohol and Substance Abuse Training program (“ASAT”), and to enjoin the Defendants from “withholding good time credits and parole eligibility” (Dkt. No. 11); (2) defendant Dr. Krishna Kumar Vadlamudi moves for summary judgment on certain of plaintiff’s claims (Dkt. No. 27); and (3) the remaining defendants, joined by Dr. Vadlamudi, move to dismiss the amended complaint pursuant to Fed. R. Civ. P. 12(b)(6) (Dkt. No. 42).

The motions were referred to United States Magistrate Judge Randolph F. Treece for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c). Magistrate Judge Treece has submitted a Report and Recommendation (Dkt. No. 51) which recommends that the motion for a preliminary injunction be denied, the motion for summary judgment be granted, the motion to dismiss be granted, and the amended complaint be dismissed in its entirety.

Plaintiff has submitted objections to the Report and Recommendation (Dkt. No. 53). Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducts a *de novo* review of those parts of a magistrate judge’s Report and Recommendation to which a party specifically objects. Failure to object to any portion of a Report and Recommendation waives further judicial review of the matters therein. *See Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993). Defendants have no objection to the Report and Recommendation (Dkt. No. 54).

Upon *de novo* review, the Court determines that the Report and Recommendation of

Magistrate Judge Treece is correct in all respects. It is therefore

ORDERED that plaintiff's motion for a preliminary injunction (Dkt. No. 11) is denied;
and it is further

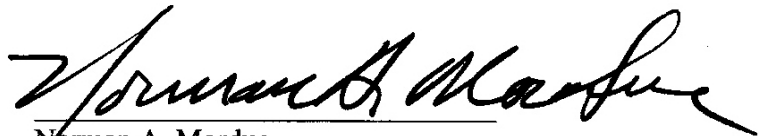
ORDERED that the motion for summary judgment by defendant Dr. Krishna Kumar
Vadlamudi (Dkt. No. 27) is granted; and it is further

ORDERED that the defendants' motion to dismiss (Dkt. No. 42) is granted; and it is
further

ORDERED that the amended complaint (Dkt. No. 10) is dismissed in its entirety.

IT IS SO ORDERED.

March 17, 2006
Syracuse, New York



Norman A. Mordue
Chief United States District Court Judge

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