

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

FEB 11 2015

JOHN ALLEN SHABAZZ, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JEFF HALL, )  
 )  
 Defendant. )

**MAGISTRATE JUDGE IAIN D. JOHNSTON  
UNITED STATES DISTRICT COURT**

Case: 12 CV 50355

**MOTION FOR JUDGMENT AS A MATTER OF LAW**

Defendant, Jeff Hall, by his attorney, Paul Carpenter, Assistant State's Attorney for Winnebago County, Illinois, moves this court, pursuant to Rule 50 of the Federal Rules of Procedure, to enter judgment in his favor as a matter of law with respect to Plaintiff's claim for compensatory and punitive damages, and in support thereof states as follows:

1. This is a Section 1983 Civil Rights action wherein Plaintiff alleges Defendant Hall exerted excessive force against Plaintiff.
2. Plaintiff seeks compensatory and punitive damages against Defendant Hall.
3. In order to prevail on his claim for compensatory damages Plaintiff must prove Defendant Hall used unreasonable force against him. *Seventh Circuit Pattern Jury Instruction 7.08.*
4. In order to prevail on a claim for punitive damages Plaintiff must prove Defendant Hall's "conduct was malicious or in reckless disregard of Plaintiff's rights. Conduct is malicious if it is accompanied by ill will or spite, or is done for the purpose of injuring Plaintiff. Conduct is in reckless disregard of Plaintiff's rights if, under the

circumstance it reflects complete indifference to Plaintiff's safety or rights." *Seventh Circuit Pattern Jury Instruction 7.24*.

5. The incident which is the subject of Plaintiff's lawsuit occurred in a correctional setting. At all times relevant to this cause of action, Defendant Hall was a corrections officer acting within the scope of his employment, and Plaintiff was an arrestee under the charge and control of Defendant Hall.

6. As a corrections officer in the scope of his employment Defendant Hall had the legal authority to use force to maintain order and discipline within the correctional setting. *Sanders, et al v. State of Illinois*, 2001 WL 34677728 (Ill. Ct. Cl.); *Soto v. Dickey*, 744 F.2d 1260, 1267 (7<sup>th</sup> Cir. 1984); and *Kewis v. Downey*, 581 F.3d 467, 476 (7<sup>th</sup> Cir. 2009).

7. Based on the evidence submitted at trial in this case no reasonable juror could find Defendant Hall's actions were unreasonable under the circumstances. It is well established that *de minimis* uses of force do not violate a person's constitutional rights. *See, e.g., DeWalt v. Carter*, 224 F.3d 607, 620 (7<sup>th</sup> Cir. 2000).

8. While the facts of this case are contested, even if the jury believes Plaintiff's version, Defendant pushed Plaintiff one time.

9. In *DeWalt*, the plaintiff was pushed by a correctional officer into a door frame, sustaining bruising. The Seventh Circuit held that this isolated push was *de minimus* and fell short of what was required to state a claim for excessive force. The court noted that the conduct described would be "unjustified," but would not support a claim for excessive force. *Id.*

8. Based on the evidence submitted at trial in this case no reasonable juror could find Defendant Hall's actions were either malicious or done in reckless disregard of Plaintiff's rights. There is no evidence to support a finding that Defendant Hall's actions were accompanied by ill will or spite; nor is there any evidence to support a finding Defendant Hall's actions were taken for the purpose of injuring Plaintiff. Furthermore, there is insufficient evidence to sustain a finding that his actions reflected a complete indifference to Plaintiff's safety or rights.

**WHEREFORE**, Defendant Hall moves this Court to dismiss Plaintiff's claims for compensatory damages and for punitive damages, and to enter judgment in favor of Defendant Hall.

Jeff Hall, Defendant,

BY: \S\ Paul Carpenter

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