

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

| | | |
|-------------------------|---|--------------------------|
| EUGENE ANDERSON, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | No. 1:09-cv-1515-SEB-JMS |
| |) | |
| MICHAEL SKEENS, et al., |) | |
| |) | |
| Defendants. |) | |

Entry Concerning Selected Matters

I.

Plaintiff Eugene Anderson, an inmate at the Plainfield Correctional Facility, alleges that the defendants violated his Fourth and Fourteenth Amendment rights by using excessive force in the course of his arrest on October 11, 2008. The action was filed in an Indiana state court and removed to this court on December 11, 2009.

Anderson is a prisoner. Accordingly, his complaint is subject to the screening required by 28 U.S.C. § 1915A(b). *Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). This statute requires that any complaint submitted by a prisoner, or any claim within such a complaint, be dismissed if the complaint or the claim fails to state a claim upon which relief can be granted. *Id.*

II.

The claim brought pursuant to the Fourteenth Amendment is dismissed for failure to state a claim upon which relief may be granted. The reason for this ruling is that "all claims that law enforcement officers have used excessive force--deadly or not--in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its 'reasonableness' standard." *Graham v. Connor*, 490 U.S. 386, 395 (1989) (emphasis in original). The Fourteenth Amendment's guarantee of due process is simply not the constitutional provision applicable to Anderson's allegations. *Albright v. Oliver*, 510 U.S. 266, 271 (1994); see *Conyers v. Abitz*, 416 F.3d 580, 586 (7th Cir. 2005)("[C]onstitutional claims must be addressed under the most applicable provision.").

No partial final judgment shall issue at this time as to the claims resolved in this Entry.

III.

The parties shall have **through February 11, 2010**, in which to complete written discovery and discovery depositions.

The parties shall have **through March 11, 2010**, in which to file any dispositive motion, including any motion for summary judgment.

IV.

No case management plan need be submitted in this action unless ordered in the future.

IT IS SO ORDERED.

Date: 12/22/2009



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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