

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

RAYMOND RUIZ,	:	
	:	Civil Action No. 09-4259 (RBK)
Plaintiff,	:	
	:	
	:	
v.	:	<b>ORDER</b>
	:	
KEVIN STILLS, CUMBERLAND	:	
COUNTY JAIL CORRECTION	:	
OFFICER,	:	
	:	
Defendant.	:	

For the reasons expressed in the Court's Opinion filed herewith,

It is on this 22<sup>nd</sup> day of December, 2009,

ORDERED that the Clerk of the Court is directed to file the Complaint without prepayment of the filing fee; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall serve a copy of this Order by regular mail on the Attorney General of the State of New Jersey and on the Warden or Administrator at the Cumberland County Jail, where plaintiff currently is confined; and it is further

ORDERED that plaintiff is assessed a filing fee of \$350.00 which shall be deducted from plaintiff's prison account pursuant to 28 U.S.C. § 1915(b) (2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(2), until the \$350.00 fee is paid, each month that the amount in plaintiff's prison account exceeds \$10.00, the agency having custody of plaintiff shall assess, deduct from his account, and forward to the Clerk payments equal to 20% of the preceding month's income credited to plaintiff's prison account, with each payment referencing the civil docket number of this action; and it is further

ORDERED that plaintiff's claim asserting denial of disciplinary due process is DISMISSED WITH PREJUDICE, in its entirety, as to the named defendant, for failure to state a claim upon which relief may be granted, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1); and it is further

ORDERED that plaintiff's claim alleging the use of excessive force in violation of his constitutional rights, SHALL PROCEED at this time; and it is further

ORDERED that the Clerk of the Court shall issue summons, and the United States Marshal shall serve a copy of the Complaint, summons, and this Order upon the defendant, pursuant to 28 U.S.C. § 1915(d), with all costs of service advanced by the United States; and it is further

ORDERED that the defendant shall file and serve a responsive pleading within the time specified in Federal Rule of Civil

Procedure 12, pursuant to 42 U.S.C. § 1997e(g)(2); and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(e)(1) and § 4(a) of Appendix H of the Local Civil Rules, the Clerk shall notify plaintiff of the opportunity to apply in writing to the assigned judge for the appointment of pro bono counsel in accordance with the factors set forth in Tabron v. Grace, 6 F.3d 454 (3d Cir. 1993), cert. denied, 510 U.S. 1196 (1994), which sets forth the requirements for eligibility for appointment of pro bono counsel (in this regard, plaintiff is advised that such appointment is not automatic); and it is further

ORDERED that the Clerk shall enclose with such notice a copy of Appendix H and a form Application for Appointment of Pro Bono Counsel; and it is finally

ORDERED that, if at any time plaintiff seeks the appointment of pro bono counsel, pursuant to Fed. R. Civ. P. 5(a) and (d), plaintiff shall (1) serve a copy of the Application for Appointment of Pro Bono Counsel by regular mail upon each party at his last known address or, if the party is represented in this action by an attorney, upon the party's attorney at the

attorney's address, and (2) file a Certificate of Service with plaintiff's Application for Pro Bono Counsel.

s/Robert B. Kugler  
ROBERT B. KUGLER  
United States District Judge