

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OTIS BRIDGEFORTH,

Plaintiff,

v.

1:08-CV-779 (LEK/RFT)

COUNTY OF RENSSELAER, et al.,

Defendants.

DECISION AND ORDER

Before the Court are two duplicative Motions seeking relief designated as declaratory judgment. Dkt. Nos. 52, 62. Plaintiff Otis Bridgeforth is proceeding *pro se* and *in forma pauperis*. In fact, Plaintiff's Motions appear to seek only money damages, presumably on the basis of his pleadings.

Plaintiff, following this Court's Decision and Order (Dkt. No. 19) approving and adopting a Report-Recommendation (Dkt. No. 14) by Magistrate Judge Randolph Treece reviewing Plaintiff's Second Amended Complaint (Dkt. No. 10) pursuant to 28 U.S.C. §§ 1915(e) and 1915(e)A, has one surviving cause of action in the instant case. He alleges that on August 13, 2007, the same date the Defendant police officers arrested him, they also assaulted him, and that he received a verbal and physical beating in violation of the Eighth Amendment.¹ See Second Am. Compl. (Dkt. No. 10).

¹ The Report-Recommendation adopted by this Court allowed a 42 U.S.C § 1983 to proceed based upon allegation of excessive force in violation of the Eighth Amendment; in fact, because the allegations are against arresting police officers, the claim is properly brought under the Fourth Amendment. Given Plaintiff's *pro se* status and the context of his suit, the Court shall construe his

There is no basis in law for the Motions which Plaintiff has filed. The submission merely repeats his Complaint, accompanied by some extraneous material concerning jurisdiction. While the Court fully recognizes and takes into account Plaintiff's *pro se* status, his Motions must be denied. Money damages are unavailable through declaratory judgment, which is simply a ruling on parties' rights. Whether viewed as a Motion for judgment on the pleadings or for declaratory judgment, however, the Court finds that neither can be granted for the plain reason that, at this pre-discovery juncture, Plaintiff has presented to the Court only the allegations and conclusory statements contained in his Complaint.

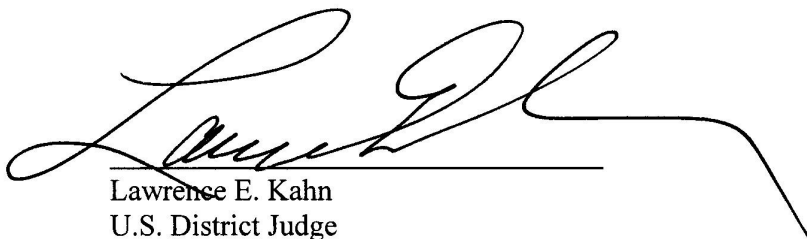
Accordingly, it is hereby

ORDERED, that the Plaintiffs' Motions for declaratory judgment (Dkt. No. 52, 62) are DENIED; and it is further

ORDERED, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: March 11, 2010
Albany, New York



Lawrence E. Kahn
U.S. District Judge

remaining claim as being brought under the Fourth rather than Eighth Amendment.