

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BENNIE GIBSON,

Plaintiff,

vs.

**1:10-CV-968
(MAD/TWD)**

**BRAD IGRAHAM, *Coxsackie
Correctional Facility*, and JASON YUNG,
Coxsackie Correctional Facility,**

Defendants.

APPEARANCES:

OF COUNSEL:

NIXON, PEABODY LAW FIRM

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Attorneys for Plaintiff

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**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol
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**KEITH J. STARLIN, AAG
LAUREN ROSE EVERSLEY, AAG**

Mae A. D'Agostino, U.S. District Judge:

ORDER

On August 11, 2010, Plaintiff, Bennie Gibson, commenced this action, asserting claims arising out of his confinement at Coxsackie Correctional Facility. *See* Dkt. No. 1. On October 23, 2014, Magistrate Judge Dancks issues an Order and Report-Recommendation recommending the Court grant Defendants Maher, Allen, Bushane, and Schreurs' Motion for Summary

Judgment. Dkt. No. 232. Judge Khan adopted Magistrate Judge Dancks' order on December 15, 2014. Dkt. No. 241. Following the Court's order, the only claims that remain are Plaintiff's claim for excessive force against Defendant Brad Ingraham and failure to protect against Defendant Jason Yung. *See* Dkt. Nos. 50, 232.

Currently before the Court is Defendants' pre-trial motion *in limine*. Dkt. No. 407. In their motion, Defendants have moved for the Court's permission to inquire into the essential facts of Plaintiff's felony convictions on cross-examination pursuant to Rule 609(a) of the Federal Rules of Evidence and also have moved for an instruction to the jury that, as a matter of fact and law, Plaintiff initiated the use of force on August 26, 2011. *See* Dkt. No. 407. Plaintiff filed a letter with the Court stating that he does not oppose Defendants' motion *in limine*. *See* Dkt. No. 409. As there is no objection, Defendants' motion is granted.

After carefully reviewing the entire record in this matter, the parties' submissions and the applicable law, and for the reasons stated herein, the Court hereby

ORDERS that Defendants' motion *in limine* (Dkt. No. 407) is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order in accordance with the Local Rules

IT IS SO ORDERED.

Dated: June 3, 2021
Albany, New York


Mae A. D'Agostino
U.S. District Judge