

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RONALD HAYES,

Plaintiff,

-v-

9:10-CV-1201

THE STATE OF NEW YORK, D.O.C.S.;
C.O. BURCH, Great Meadow Correctional Facility;
C.O. WRIGHT, Great Meadow Correctional Facility;
C.O. JONES, Great Meadow Correctional Facility;
SMITH & WESSON; and THE STATE OF NEW YORK,

Defendants.

APPEARANCES:

OF COUNSEL:

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02-A-4085
Plaintiff, Pro Se
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HOWARD F. STRONGIN, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Ronald Hayes brings this action pursuant to 42 U.S.C. § 1983 and New York State products liability laws. On August 27, 2013, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation, that the State defendants' motion for summary judgment be granted in part and denied in part, and that Smith & Wesson's motion for summary judgment be granted in its entirety. Plaintiff and defendant C.O. Wright timely filed objections to the Report-Recommendation. Defendant Smith & Wesson belatedly replied to plaintiff's objections, urging adoption of the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff and C.O. Wright objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

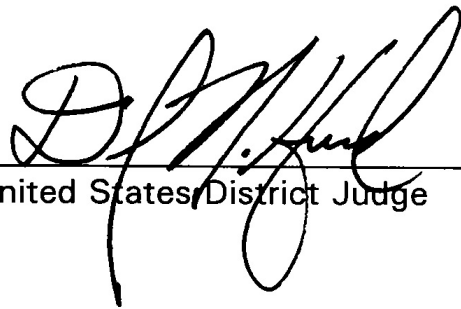
1. D.O.C.S., C.O. Burch, C.O. Wright, C.O. Jones, and the State of New York's motion for summary judgment is GRANTED in part and DENIED in part;
2. D.O.C.S. and the State of New York are DISMISSED from this action;
3. All claims against C.O. Burch, C.O. Wright, and C.O. Jones in their official capacities are DISMISSED;
4. Smith & Wesson's motion for summary judgment is GRANTED;
5. Smith & Wesson is DISMISSED from this action;

6. This matter is referred back to Magistrate Judge Treece for the assignment of trial counsel within thirty (30 days); and

7. Upon the assignment of trial counsel, the matter shall be forwarded to the undersigned for a trial date to be set.

The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: September 18, 2013
Utica, New York.

Plaintiff's excessive force claims remain against C.O. Burch, C.O. Jones, and C.O. Wright.