

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SCOTTIE MORRISON,

Plaintiff,

v.

9:14-CV-0800
(GTS/DJS)

ROBERT LOWRY, Corr. Sergeant, Great Meadow
Corr. Facility; T. LEMERY, Corr. Officer, Great
Meadow Corr. Facility; K. COPELAND, Corr. Officer,
Great Meadow Corr. Facility; and S. BAXTER, Corr.
Officer, Great Meadow Corr. Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

SCOTTIE MORRISON, 99-A-0470

Plaintiff, *Pro Se*

Elmira Correctional Facility

P.O. Box 500

Elmira, New York 14902

HON. ERIC T. SCHNEIDERMAN

Attorney General for the State of New York

Counsel for Defendants

The Capitol

Albany, New York 12224

LOUIS JIM, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Scottie Morrison (“Plaintiff”) against the four above-captioned employees of the New York State Department of Corrections and Community Supervision at Great Meadow Correctional Facility (“Defendants”), are Plaintiff’s motion for summary judgment and United States Magistrate Judge Daniel J. Stewart’s Report-Recommendation recommending that Plaintiff’s motion be

denied and that this action be deemed trial ready. (Dkt. Nos. 66, 83.) None of the parties have filed objections to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Stewart’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Stewart employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein; and Plaintiff’s motion is denied and this action is deemed trial ready.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Stewart’s Report-Recommendation (Dkt. No. 83) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff’s motion for summary judgment (Dkt. No. 66) is **DENIED**; and it is further

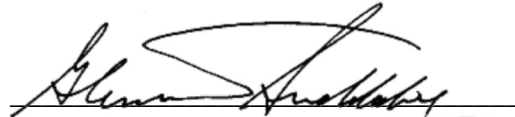
ORDERED that that Pro Bono Counsel be appointed for the Plaintiff for purposes of trial only; any appeal shall remain the responsibility of the plaintiff alone unless a motion for appointment of counsel for an appeal is granted; and it is further

ORDERED that upon assignment of Pro Bono Counsel, a final pretrial conference will be scheduled with counsel only, at which time the Court will schedule for trial Plaintiff’s Eighth

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a “clear error” review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

Amendment excessive force claims against Defendants Timothy Lemery, Sean Baxter and Kory Copeland, and a claim for failure to intervene against Defendant Robert Lowry. The parties are directed to appear at the final pretrial conference with settlement authority.

Dated: September 23, 2016
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge