

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RAHEEM FORD,

Plaintiff,

-v-

9:14-cv-1566
(DNH/DEP)

DANIEL MARTUSCELLO, JR., Department of
Corrections and Community Supervision;
CAPTAIN SHANLEY, Department of
Corrections and Community Supervision; ERIC
GUTWEIN, Commissioner Hearing Officer,
Department of Corrections and Community
Supervision; CORRECTIONAL OFFICER
SEAN KING, Department of Corrections and
Community Supervision; D. WILLIAMS,
Department of Corrections and Community
Supervision; CORRECTIONAL OFFICER F.
COWAN, Department of Corrections and
Community Supervision; CORRECTIONAL
OFFICER BELLAWA, Department of
Corrections and Community Supervision; and
LECLAIR, First Deputy Superintendent;
Department of Corrections and Community
Supervision,

Defendants.

APPEARANCES:

RAHEEM FORD
Plaintiff pro se
98-A-3051
Fishkill Correctional Facility
P.O. Box 1245
Beacon, NY 12508

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants

C. HARRIS DAGUE, ESQ.
Ass't Attorney General

The Capitol
Albany, NY 12224

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Raheem Ford brought this civil rights action pursuant to 42 U.S.C. § 1983. On July 20, 2017, the Honorable David E. Peebles, United States Magistrate Judge, advised by Report-Recommendation that defendants' unopposed motion for summary judgment be granted and that plaintiff's retaliation claim against defendants King, Williams, and Cowan, and all claims against defendants Shanley and Martuscello be dismissed.

Plaintiff filed timely objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff 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. Defendants' motion for partial summary judgment is GRANTED;
2. Plaintiff's retaliation claim against defendants King, Williams, and Cowan is DISMISSED;
3. All claims against defendants Shanley and Martuscello are DISMISSED;
4. The following claims remain for trial: (1) excessive use of force and/or failure to intervene under the Eight Amendment asserted against defendants King, Williams, Cowan, Gutwein, and Bellawa; and (2) violation of due process under the Fourteenth Amendment

asserted against defendants Gutwein and LeClaire;

5. Trial in this matter is scheduled for February 5, 2018 in Utica, New York; and

6. Pro bono trial counsel be appointed for plaintiff.

IT IS SO ORDERED.



United States District Judge

Dated: September 18, 2017
Utica, New York.