

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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AKEEM ULMER,

Plaintiff,

-v-

9:15-CV-497  
(DNH/TWD)

CORRECTIONAL OFFICER DIBBLE, Franklin  
Correctional Facility; JOHN DOES 1-5, Correctional  
Officers, Franklin Correctional Facility; SERGEANT  
DUMAS, Franklin Correctional Facility; and SERGEANT  
BEDORE,

Defendants.

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APPEARANCES:

AKEEM ULMER  
Plaintiff pro se  
2171 Madison Avenue 4B  
New York, NY 10037

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorney for Respondent  
The Capitol  
Albany, NY 12224

CHRISTOPHER J. HUMMEL, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Akeem Ulmer brought this civil rights action pursuant to 42 U.S.C. § 1983. On December 4, 2017, the Honorable Therese Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion for partial summary judgment be granted in part and denied in part. Magistrate Judge Dancks

specifically recommended that summary judgment be granted in its entirety as to defendant Dumas; that summary judgment be granted as to defendants Bedore and Dibble on plaintiff's First Amendment retaliation claims; that defendant Bedore be denied summary judgment without prejudice on plaintiff's Eighth Amendment excessive force and failure to protect claims; and that the parties be allowed sixty (60) days from the date of *this* Decision and Order to conduct additional discovery regarding the identification of the Sergeant alleged by plaintiff to have been involved in the laundry room assault on December 29, 2014. Finally, Magistrate Judge Dancks recommended that defendant Bedore be given thirty (30) days thereafter to file a second motion for summary judgment on plaintiff's excessive force and failure to protect claims. 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

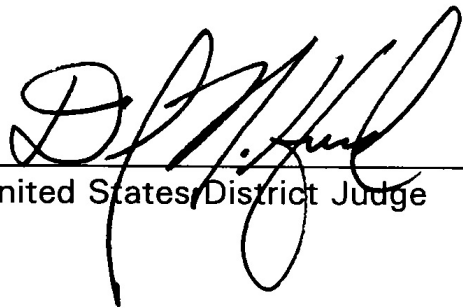
1. Defendants' motion for partial summary judgment is GRANTED in part and DENIED in part;
2. Summary judgment is GRANTED in its entirety as to defendant Dumas and all claims against him are DISMISSED;
3. Summary judgment is GRANTED as to plaintiff's First Amendment retaliation claims against defendants Bedore and Dibble and those claims are DISMISSED;
4. Summary judgment is DENIED without prejudice as to plaintiff's Eighth

Amendment excessive force and failure to protect claims against defendant Bedore;

5. The parties are provided sixty (60) days from the date of this Decision and Order to conduct additional discovery regarding the identification of the Sergeant alleged by plaintiff to have been involved in the laundry room assault on December 29, 2014; and

6. Defendant Bedore is provided thirty (30) days thereafter to file a second motion for summary judgment on plaintiff's excessive force and failure to protect claims.

IT IS SO ORDERED.



United States District Judge

Dated: March 16, 2018  
Utica, New York.