

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NIGEL FREDERICKS,

Plaintiff,

-v-

9:17-CV-15
(DNH/DJS)

B. BORDEN, Correction Officer, Franklin
Correctional Facility and R. OLIVEIRA,

Defendants.

APPEARANCES:

OF COUNSEL:

NIGEL FREDERICKS
Plaintiff pro se
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Ass't Attorneys General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Nigel Fredericks brought this civil rights action pursuant to 42 U.S.C.

§ 1983. On August 6, 2019, the Honorable Daniel J. Stewart, United States Magistrate

Judge, advised by Report-Recommendation that defendants' unopposed¹ motion for summary judgment be granted in part and denied in part. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion for summary judgment is GRANTED in part and DENIED in part;

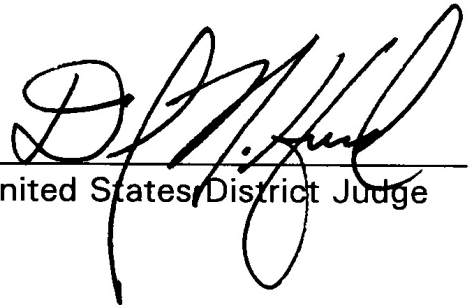
2. Defendants' motion for summary judgment as to the claim against defendant R. Oliveira is GRANTED and the Second Amended Complaint is DISMISSED as against him;

3. Defendants' motion for summary judgment as to the claim against defendant B. Borden is DENIED;

4. Trial on plaintiff's remaining Eighth Amendment excessive force claim against defendant B. Borden is scheduled for February 10, 2020 in Utica, New York; and

5. Plaintiff is directed to contact the Court within thirty (30) days of the date of this Decision and Order with any request for the appointment of pro bono counsel.

¹ Despite numerous extensions of time granted sua sponte by the Court, plaintiff has not filed any opposition to the motion.



United States District Judge

Dated: September 30, 2019
Utica, New York.