

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:16-cv-62-FDW**

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|----------------------------|---|---------------------|
| DEVIN HYMAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | <u>ORDER</u> |
| |) | |
| FNU MILLER, et al., |) | |
| |) | |
| Defendants. |) | |
| <hr/> |) | |

THIS MATTER is before the Court on Plaintiff’s Motion and Request for Video Footage, (Doc. No. 81).

Pro se Plaintiff Devin Hyman, a North Carolina prisoner currently incarcerated at Lanesboro Correctional Institution, filed this action on April 15, 2016, pursuant to 42 U.S.C. § 1983, alleging that Defendants used excessive force against him on February 4, 2016, while he was incarcerated at Alexander Correctional Institution. Plaintiff named the following persons as Defendants, identified as correctional officers at Alexander at all relevant times: (1) FNU Miller; (2) FNU Causby; (3) FNU Murry; and (4) FNU Carswell.

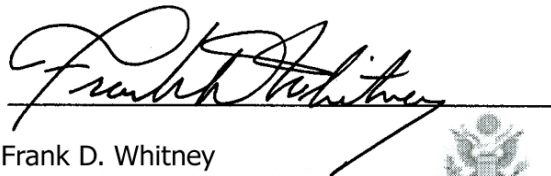
In his motion, Plaintiff seeks an order from the Court requiring Defendants to produce video footage involving the alleged incident which forms the basis for this action. Plaintiff’s motion will be denied for the reasons stated in Defendants’ memorandum in opposition. That is, as Defendants note, Plaintiff already requested the production of this video footage in written discovery and in Plaintiff’s First Request for Production of Documents to Defendants. Pursuant to Plaintiff’s Request for Production No. 3, Defendants were asked to produce “[v]ideo feed of

the time and date the excessive use of force took place.” In response to Plaintiff’s Request for Production No. 3, Defendants sent a copy of the surveillance video footage from February 4, 2016, which depicts the incident, to facility management at Lanesboro Correctional Institution (Plaintiff’s current housing location), with instructions to provide Plaintiff the opportunity to view the surveillance. See (Doc. No. 83-1: Defs.’ Ex A). After viewing the video footage, Plaintiff was asked to sign an acknowledgement demonstrating that he had an opportunity to view the video footage. Plaintiff did in fact review the requested video footage on February 8, 2017. See (Doc. No. 83-2: Defs.’ Ex. B). Thus, Plaintiff’s motion will be denied as moot.

IT IS, THEREFORE, ORDERED that

(1) Plaintiff’s Motion and Request for Video Footage, (Doc. No. 81) is **DENIED** as moot.

Signed: September 20, 2017


Frank D. Whitney
Chief United States District Judge

