

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:16-cv-101-FDW**

**CARL BENNETT PRIMUS, JR.,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **FNU PAYNE, Correctional Officer,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

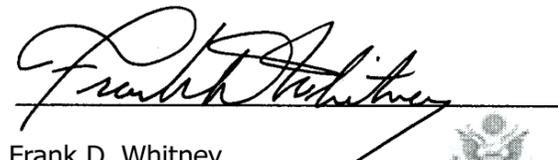
**ORDER**

**THIS MATTER** is before the Court in light of Defendant’s response to this Court’s order to show cause why the parties have not filed dispositive motions in this action, filed under 42 U.S.C. § 1983, in which pro se Plaintiff brings a claim against Defendant for excessive force in violation of Plaintiff’s Eighth Amendment rights. See (Doc. No. 54).

Defendant appears to concede, in his response to this Court’s show cause order, that genuine disputes of fact exist in this action and, thus, this matter should proceed to trial on Plaintiff’s excessive force claim. Within ten days of this Order, Defendant shall notify the Court whether Defendant concedes, through his response to the Court’s show cause order, that this matter should be scheduled for trial.

**IT IS SO ORDERED.**

Signed: October 12, 2017

  
\_\_\_\_\_  
Frank D. Whitney  
Chief United States District Judge

