



July 7, 2014, recommending that judgment be entered for the defendant. Bacon has filed timely objections to the Report, which objections are ripe for decision.

Bacon does not object to the magistrate judge's determinations of the applicable law. The unnecessary and wanton infliction of pain by a prison official through the use of excessive force violates the Eighth Amendment. *Hudson v. McMillian*, 503 U.S. 1, 5 (1992). The Supreme Court mandates a two-prong analysis for prisoners' claims of excessive force: a subjective prong, asking whether "the officials acted with a sufficiently culpable state of mind," and an objective prong, asking "if the alleged wrongdoing was objectively harmful enough to establish a constitutional violation." *Id.* at 8 (internal quotation marks, alternations, and citation omitted). Under the subjective prong, the court must determine "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Id.* at 7. In making this inquiry, the court balances the need for the application of force, the relationship between the need for force and the amount of force actually used, and the extent of the injury inflicted. *Id.* Satisfaction of the objective prong under *Hudson* requires a showing that, in context, the use of force was "nontrivial," but does not require proof that the force caused extreme injury or pain. *Wilkins v. Gaddy*, 559 U.S. 34, 39 (2010).

The magistrate judge found that Bacon had not met his burden of proof as to the elements of his claim, to which finding the plaintiff objects.

I have carefully reviewed the transcript of the trial evidence presented before the magistrate judge.<sup>1</sup> Having conducted a de novo review of Bacon's objections, I conclude that the evidence presented supports the magistrate judge's factual findings and legal conclusions on which she relied in recommending judgment for the defendant under the subjective prong of the excessive force claim.

Accordingly, it is **ORDERED** as follows:

1. The Objections by Plaintiff (ECF No. 68) are OVERRULED;
2. The Report (ECF No. 67) is ACCEPTED; and
3. A separate Judgment will be entered in favor of Defendant C/O C.

Rose.

ENTER: September 10, 2014

/s/ James P. Jones  
United States District Judge

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<sup>1</sup> In performing a de novo review, the court must exercise "[its] non-delegable authority by considering the actual testimony, and not merely by reviewing the magistrate's report and recommendations." *Wimmer v. Cook*, 774 F.2d 68, 76 (4th Cir. 1985).