

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DUSTIN C. WILSON,
Plaintiff,

v.

LT. TINCHER, et al.,
Defendants.

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Civil Action No. 7:15cv00134

ORDER

By: Norman K. Moon
United States District Judge

In accordance with the memorandum opinion entered this day, it is hereby **ORDERED** that Nurse Payne’s motion to dismiss (Docket No. 37) is **GRANTED**; the other defendants’ motion for summary judgment (Docket No. 27) is **DENIED in part** as to the claim against Lt. Tincher about the Oleoresin Capsicum spray used in his presence and is **GRANTED in part** as to all other claims against Lt. Tincher, Warden Wright, Sgt. Lundy, and Grievance Counselor Walls; Warden Wright, Sgt. Lundy, Grievance Counselor Walls, and Nurse Payne are **TERMINATED** as defendants; Wilson’s motion for summary judgment (Docket No. 34) is **DENIED**; and in accordance with Standing Order 2013-6, Lt. Tincher shall **FILE** a motion for summary judgment within thirty days that addresses the merits of the remaining claim and exhaustion of administrative remedies.

The Clerk shall send copies of this order and the accompanying memorandum opinion to the parties.

ENTER: This 18th day of February, 2016.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE