APPENDIX

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7345

QUENTIN FREEMAN,

Plaintiff – Appellant,

v.

DANIEL DEAS,

Defendant – Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Richard E. Myers, Chief District Judge. (5:18-ct-03113-M)

Argued: September 20, 2023 Decided: November 28, 2023

Before AGEE, RUSHING, and BENJAMIN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ARGUED: Loro Schreiner, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Lisa Marie Taylor, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee. **ON BRIEF:** Erica Hashimoto, Director, Salvatore Mancina, Supervising Attorney, Zhina Kamali, Student Counsel, Shaun Rogers, Student Counsel, Appellate Litigation Program, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Joshua H. Stein, Attorney General, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Quentin Freeman, a state inmate, sued Correctional Officer Daniel Deas under 42 U.S.C. § 1983, alleging that Deas used excessive force against Freeman in violation of the Eighth Amendment's prohibition against cruel and unusual punishment. The district court granted summary judgment in favor of Deas. We affirm.

We review the award of summary judgment de novo, viewing the facts and all reasonable inferences therefrom in the light most favorable to Freeman as the nonmoving party. *See Lee v. Town of Seaboard*, 863 F.3d 323, 327 (4th Cir. 2017). Where, as here, the record contains an undisputed video of the incident, "we must only credit the plaintiff's version of the facts to the extent it is not contradicted by the video[]." *Iko v. Shreve*, 535 F.3d 225, 230 (4th Cir. 2008). Summary judgment is warranted if the movant shows "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "A fact is material if it might affect the outcome of the suit under the governing law," and a dispute is genuine if a reasonable jury could find for the nonmoving party. *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013) (internal quotation marks omitted).

On November 30, 2017, several officers at Maury Correctional Institute escorted Freeman to his cell. Freeman's wrists were handcuffed in front of his body and his feet were shackled. On the way, Freeman asked for his cane, which he said he needed to walk. Two officers went to retrieve the cane, and the remaining officers placed Freeman in a small holding cell to wait. While he waited, Freeman chose to stand on the seat in the cell.

At some point, the holding cell door was opened and at least one officer directed Freeman to step down from the seat and out of the holding cell. Freeman refused. Deas entered the cell and attempted a soft touch on Freeman's right arm to assist him down, but Freeman jerked away. Deas then grasped Freeman's restraints and caused Freeman to step down from the seat as Freeman continued to resist and pull away. Deas moved out of the cell away from Freeman.

Suddenly, Freeman stepped through the cell doorway and lunged forward in an attempt to headbutt Deas, who then struck Freeman. A second officer stepped between Freeman and Deas, and for the next six to eight seconds Deas and Freeman struggled in the cell before Deas was fully extracted by the other officers. The men are not entirely visible on the video in this interval. Freeman avers that during this time Deas delivered a "flurry of closed fisted punches to [his] face, head, and neck." J.A. 150.

Two officers escorted Deas down the hall away from Freeman while three other officers restrained and guarded Freeman at the door of the holding cell. The video, although silent, shows that both Freeman and Deas were speaking. As Deas neared the end of the hallway, he abruptly turned around and ran back toward the holding cell, but other officers intercepted him before he could reach Freeman. After the incident, medical staff examined both men and found no injuries.

To prevail on his excessive force claim, Freeman must prove "both an objective and a subjective component. The objective component asks whether the force applied was sufficiently serious to establish a cause of action." *Brooks v. Johnson*, 924 F.3d 104, 112

(4th Cir. 2019). The district court assumed it was, and the parties do not dispute that premise.

The subjective component asks whether the officer acted with "wantonness in the infliction of pain." *Whitley v. Albers*, 475 U.S. 312, 322 (1986). This is a "demanding standard," *Brooks*, 924 F.3d at 112, that ultimately turns on "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm," *Hudson v. McMillian*, 503 U.S. 1, 7 (1992). The Supreme Court in *Whitley* identified four nonexclusive factors from which we may draw inferences about the defendant's intent. Those factors are: "(1) 'the need for the application of force'; (2) 'the relationship between the need and the amount of force that was used'; (3) the extent of any reasonably perceived threat that the application of force was intended to quell; and (4) 'any efforts made to temper the severity of a forceful response.'" *Iko*, 535 F.3d at 239 (quoting *Whitley*, 475 U.S. at 321). The point is that punitive intent may be inferred if the force used "is not reasonably related to a legitimate nonpunitive governmental objective," *Brooks*, 924 F.3d at 116 (internal quotation marks omitted), but may be excluded if the force "could plausibly have been thought necessary by the officers in question," *Dean v. Jones*, 984 F.3d 295, 309 (4th Cir. 2021) (internal quotation marks omitted).

Considering the *Whitley* factors, we agree with the district court that no reasonable jury could find that Deas acted maliciously rather than to maintain or restore discipline. The first factor is the need for application of force. Corrections officers act with a permissible motive "not only when they confront immediate risks to physical safety, but also when they attempt to preserve internal order by compelling compliance with prison

rules and procedures." *Brooks*, 924 F.3d at 113 (internal quotation marks omitted). Deas faced both a threat to officer safety and the need to extract a recalcitrant inmate from his cell. Freeman admits that he refused to exit the holding cell when ordered to do so, that he jerked away from Deas twice, and that he attempted to headbutt Deas. The undisputed evidence demonstrates that some use of force was a necessary response to Freeman's noncompliance and aggressive actions.

As to the second factor—the relationship between the need and the amount of force used—we owe some deference to an officer's split-second decision about how to respond to a given situation. *See Hudson*, 503 U.S. at 6; *Whitley*, 475 U.S. at 319. At oral argument, Freeman contended that no force or hands-on technique of any kind was permissible because Deas instead should have disengaged entirely in response to Freeman's attempted headbutt and refusal to exit the holding cell. That argument contradicts our precedent. *See*, *e.g.*, *Brooks*, 924 F.3d at 113; *Grayson v. Peed*, 195 F.3d 692, 697 (4th Cir. 1999); *Williams v. Benjamin*, 77 F.3d 756, 762 (4th Cir. 1996). And while Freeman also contends that multiple punches during the six-to-eight-second struggle in the holding cell was grossly disproportionate to any need for force, he admits that he suffered no injury. Although the absence of injury is not dispositive, "[t]he extent of injury suffered by an inmate is one factor that may suggest whether the use of force could plausibly have been thought necessary in a particular situation" and "may also provide some indication of the amount of force applied." *Wilkins v. Gaddy*, 559 U.S. 34, 37 (2010) (internal quotation marks omitted). In these circumstances, the amount of force used in response to the need does not raise an inference of wantonness. *Cf. Grayson*, 195 F.3d at 694, 696 (affirming

summary judgment for officers who punched inmate seven to nine times in struggle to extract him from cell).

Turning to the third factor, we consider the extent of any reasonably perceived threat the application of force was intended to quell. Freeman admits he attempted to headbutt Deas, who responded immediately with force. This is not a case like *Dean*, where an officer allegedly pepper-sprayed "a formerly recalcitrant inmate" who was "fully subdued and non-resistant," with another officer kneeling on his chest. 984 F.3d at 304. Despite his shackles, Freeman had attempted to assault Deas and continued to pose a threat when Deas struck him. This "manifest and immediate need for the protective use of force gives rise to a powerful logical inference that [the] officer[] in fact used force for just that reason." *Brooks*, 924 F.3d at 116.

The fourth and final factor focuses on efforts made to avoid or temper a forceful response. Under this factor, we consider "the officers' preliminary efforts to secure [the inmate's] compliance without using violent force." *Id.* at 117. In trying to gain Freeman's compliance with the command to step down from the seat and exit the holding cell, Deas first attempted a soft touch and then holding Freeman's restraints to direct him off the seat. Deas resorted to a more forceful response only after Freeman attempted to headbutt him. In sum, viewing the record through the *Whitley* factors, Freeman has not satisfied the subjective component of an excessive force claim.

Freeman counters that analysis of the *Whitley* factors is unnecessary because direct and circumstantial evidence demonstrates that Deas's motive was malicious. First, Freeman asserts that, instead of commanding him to step down from the seat before the

incident, Deas insulted him. Interactions between an officer and a prisoner before the use of force can reveal an officer's motives, but the circumstances here do not support an inference of malicious intent for using force. Even accepting Freeman's assertion that Deas made unspecified insults, Freeman admits—and the video clearly shows—that he refused another officer's command to exit the holding cell and then physically resisted Deas's attempts to direct him off the seat. In addition, Freeman's attempted headbutt placed Deas in danger and necessitated responsive efforts to control Freeman for officer safety. On this record, these intervening events foreclose "a reliable inference of wantonness in the infliction of pain." *Whitley*, 475 U.S. at 322.

Second, Freeman argues that Deas's charge down the hall toward him after the incident is evidence that Deas acted with malicious intent. An officer's comments or actions after a use of force, like those before, can be evidence supporting an inference of malicious motivation. But in view of all the circumstances here, including the inference to be drawn from the *Whitley* factors, Deas's rush back down the hallway after the use of force, without evidence of any comments made and without reaching Freeman, could not sustain a verdict in Freeman's favor.

For the foregoing reasons, the order of the district court is

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CT-03113-M

QUENTIN FREEMAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
DANIEL DEAS,	)	
	)	
Defendant.	)	

This cause is before the court on defendant's motion for summary judgment [D.E. 35] and plaintiff's pending motion for appointment of counsel [D.E. 51]. For the reasons discussed below, the court denies plaintiff's motion and grants defendant's motion for summary judgment.

Statement of the Case:

On May 18, 2018, Quentin Freeman ("plaintiff"), a state inmate proceeding *pro se* and without prepayment of fees, filed this complaint under 42 U.S.C. § 1983. See [D.E. 1, 2, 9]. Plaintiff generally alleges that, at Maury Correctional Institution ("Maury") on November 30, 2017, Correctional Officer Daniel Deas ("Deas" or "defendant") used excessive force against plaintiff, in violation of plaintiff's Eighth Amendment rights. Compl. [D.E. 1] at 3, 5–6. Plaintiff seeks compensatory and punitive damages. Id. at 9.

On December 20, 2018, the court denied a motion to appoint counsel, conducted its initial review under 28 U.S.C. § 1915A, allowed the complaint to proceed, and appointed North Carolina Prisoner Legal Services, Inc. ("NCPLS") to assist plaintiff with discovery. See Order [D.E. 13].

On January 8, 2020, the case was reassigned to the undersigned judge via a text order.

On February 10, 2020, defendant filed a motion for summary judgment [D.E. 35], a memorandum in support [D.E. 36], a statement of material facts [D.E. 37], an appendix [D.E. 38], and a motion to file a video exhibit [D.E. 39]. Pursuant to Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) (per curiam), the court notified plaintiff about the pending motion for summary judgment, the consequences of failing to respond, and the response deadline [D.E. 40, 41].

On February 18, 2020, plaintiff moved for entry of default, Mot. [D.E. 43], and the court granted defendant's pending motion to manually file a video exhibit, Order [D.E. 44].

On May 18, 2020, the court denied plaintiff's motion for entry of default and granted an extension of time to file a response to the motion for summary judgment. Order [D.E. 50].

On July 16, 2020, the court docketed plaintiff's pending motion to appoint counsel, Mot. [D.E. 51], together with plaintiff's response in opposition to the motion for summary judgment [D.E. 52], an opposing statement of material facts [D.E. 53], and an appendix [D.E. 54].

Statement of Facts:

As noted below, the facts are somewhat disputed. On November 30, 2017, around 5:00 p.m., plaintiff was escorted to the Maury Gray Unit in full restraints and, around 5:20 p.m., plaintiff was placed inside a "holding cubicle" where he stood on a seat. Def.'s Stmt. Mat. Facts [D.E. 37] at ¶¶1–6; Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶1–6; Compl. [D.E. 1] at 5. Deas spoke to plaintiff but the parties disagree about what was said.[1] The parties agree that: plaintiff refused to leave the "holding cubicle"; Deas applied hands-on physical force; plaintiff jerked away

[1] Deas avers that Deas gave plaintiff a verbal command to step down from the seat on which plaintiff was standing so that staff could escort plaintiff back to his cell. Defs.' App., Ex. 2, Deas Aff., [D.E. 38-6] at ¶7. Plaintiff alleges that Deas taunted plaintiff and called plaintiff "disrespectful, profane names," Compl. [D.E. 1] at 5, and that Deas gave plaintiff no orders to step down from the seat but instead "charged in and just snatched plaintiff down," see Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶7–8.

from Deas; Deas grasped plaintiff's restraints and pulled plaintiff off the seat; plaintiff jerked away from Deas again; plaintiff attempted to headbutt Deas; and Deas struck plaintiff.[2] Def.'s Stmt. Mat. Facts [D.E. 37] at ¶¶8, 10–13; Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶8, 10–13. Other corrections officers intervened.[3] Plaintiff's medical screening after the use-of-force event noted no injuries. See Def.'s Stmt. Mat. Facts [D.E. 37] at ¶¶16–17; Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶16–17; see also Defs.' App. [D.E. 38-5] at 20 (Nov. 30, 2017, witness statement by Nurse Underwood noting a medical screening after the use-of-force event at 5:25pm and stating, "no injury noted at this time"). The parties disagree whether the force used was appropriate and necessary.[4]

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[2] Plaintiff alleges that, "[a]fter words were exchanged," Deas "snapped," entered the cubicle, grabbed plaintiff by the handcuffs/waist-chain, pulled plaintiff from the seat and, "in a rage," punched plaintiff in the face, head, and neck with a closed fist. Compl. [D.E. 1] at 5. Deas avers that: Deas verbally commanded plaintiff to step down from the seat; Deas attempted a "soft touch hold" on plaintiff's arm "to assist him from the seat" but plaintiff "jerked away"; Deas "attempted to gain a better hold of [plaintiff] by taking control of the restraints to control his body" but plaintiff pulled away, leaving Deas' hand "stuck between the restraints" and plaintiff's body; Deas freed his "right hand and created a reactionary gap between" them; plaintiff attempted to headbutt Deas; "[i]n an attempt to avoid and assault and regain control," Deas "struck plaintiff in the left brachial plexus using the heel of [Deas'] right hand." Deas Aff., [D.E. 38-6] at ¶¶7–15. Maury Officer Travis Heath ("Heath") avers that he observed: plaintiff refused to leave the cubicle; Deas used "soft touch escort" on plaintiff; and plaintiff "jerked back" from, and attempted to headbutt, Deas. See Defs.' App., Ex. 3, Heath Aff., [D.E. 38-7] at ¶¶4–7. Maury Officer Theodore Crandell ("Crandell") avers that: plaintiff refused to return to his cell; he observed Deas "attempt a soft touch escort" on plaintiff; and he observed plaintiff attempt to headbutt Deas. Defs.' App., Ex. 4, Crandell Aff., [D.E. 38-8] at ¶¶5–7. Plaintiff denies that Deas used a "soft touch hold." Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶9.

[3] Plaintiff asserts that multiple officers had to pull Deas off plaintiff. Compl. [D.E. 1] at 6. Deas avers: "Other correctional staff assisted with gaining control of [plaintiff] and pulled [Deas] away from the holding cubicle." Deas Aff., [D.E. 38-6] at ¶16. Heath avers he "stepped in between" Deas and plaintiff. Heath Aff., [D.E. 38-7] at ¶¶7–8.

[4] Deas avers that: Deas perceived plaintiff's "refusal to follow directives and aggressive resistance as creating a threat to staff safety and security of the facility"; Deas used force only to prevent an assault and to control plaintiff; Deas used only the force necessary for the duration necessary; Deas did not use force for the very purpose of harming plaintiff; and the presence of another inmate in the "holding cubicle" precluded Deas from using pepper spray. Deas Aff., [D.E. 38-6] at ¶¶17–22. Defendant argues that Deas' force was excessive because plaintiff was in full restraints and that Deas' repeated blows to plaintiff show that Deas intended to harm plaintiff. Pl.'s Mem. [D.E. 52] at 2–3. Maury Superintendent John R. Gray ("Gray") avers that: Gray reviewed the events in question; Deas took "appropriate action" in response to plaintiff's headbutting assault; Deas' use of hands-on force was to control plaintiff; and such hands-on physical force may be used by an officer to subdue an aggressive inmate or to ensure compliance with a lawful order. Defs.' App., Ex. 1, Gray Aff., [D.E. 38-1] at ¶¶4–5, 10, 26–29.

Videos of the event, including a hallway and an overhead view, lack an audio component but show: plaintiff standing on a seat inside the cubicle with several corrections officers stationed nearby; Deas, arms spread open and leaning against a wall opposite the open cubicle, speaking to plaintiff and officers; plaintiff talking and gesticulating aggressively; a fellow officer asking plaintiff to leave the cubicle with a hand gesture; plaintiff shaking his head; Deas entering the cubicle, saying what appears to be "get down," and using a soft touch in an attempt to escort plaintiff from the seat; plaintiff forcefully jerking away; Deas saying what appears to be "come on," taking hold of plaintiff's restraints with one and then both hands, and pulling plaintiff off the seat; plaintiff forcefully jerking away again; Deas disengaging from plaintiff and stepping back out of the cubicle; plaintiff menacingly advancing out of the cubicle toward Deas and attempting to headbutt Deas; Deas reentering the cubicle while applying a right-handed blow to plaintiff's body; Officer Heath stepping between plaintiff and Deas; Deas and plaintiff continuing to struggle; other officers pulling Deas by the arms and extricating Deas from the cubicle as Heath, still in the cubicle, restrains plaintiff; plaintiff pushing out of the cubicle and vociferously shouting at Deas; and Deas rushing back toward plaintiff and being restrained by several corrections officers. In the seconds after the headbutt, the overhead camera view sometimes is blocked by Officer Heath and the inmate in the next-door cubicle. See Def.'s App., Ex. C (use-of-force event videos).

Legal Standard:

Summary judgment is appropriate when, after reviewing the record as a whole, the court determines that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247–48 (1986). The party seeking summary judgment must initially demonstrate the

absence of a genuine issue of material fact or the absence of evidence to support the nonmoving party's case. Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). Once the moving party has met its burden, the nonmoving party may not rest on the allegations or denials in its pleading, Anderson, 477 U.S. at 248–49, but "must come forward with specific facts showing that there is a genuine issue for trial." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986) (emphasis and quotation omitted). A trial court reviewing a motion for summary judgment should determine whether a genuine issue of material fact exists for trial. Anderson, 477 U.S. at 249. In making this determination, the court must view the evidence and the inferences drawn therefrom in the light most favorable to the nonmoving party. Scott v. Harris, 550 U.S. 372, 378 (2007).

Discussion:

As an initial matter, no right to counsel exists in civil cases absent "exceptional circumstances." Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984), abrogated in part on other grounds by Mallard v. U.S. Dist. Court, 490 U.S. 296 (1989). The existence of exceptional circumstances "hinges on [the] characteristics of the claim and the litigant." Whisenant, 739 F.2d at 163. Here, because the facts of this case and plaintiff's abilities do not present exceptional circumstances, the court DENIES plaintiff's motion to appoint counsel [D.E. 51].

An Eighth Amendment excessive-force claim requires a showing that "the officials act[ed] with a sufficiently culpable state of mind," and that "the alleged wrongdoing was objectively harmful enough to establish a constitutional violation." Hudson v. McMillian, 503 U.S. 1, 8 (1992) (quotations and alteration omitted). "The core judicial inquiry . . . [is] not whether a certain quantum of injury was sustained, but rather whether force was applied in a good-faith effort

to maintain or restore discipline, or maliciously and sadistically to cause harm." Wilkins v. Gaddy, 559 U.S. 34, 37 (2010) (per curiam) (quotations omitted). "[T]he 'state of mind required is wantonness in the infliction of pain.'" Brooks v. Johnson, 924 F.3d 104, 112 (4th Cir. 2019) (quoting Iko v. Shreve, 535 F.3d 225, 239 (4th Cir. 2008)). Factors for whether an officer acted wantonly include: "(1) 'the need for the application of force'; (2) 'the relationship between the need and the amount of force that was used'; (3) the extent of any reasonably perceived threat that the application of force was intended to quell; and (4) 'any efforts made to temper the severity of a forceful response.'" Iko, 535 F.3d at 239 (noting that the factors outlined in Whitley v. Albers, 475 U.S. 312, 321 (1986) ("Whitley"), apply "to all allegations of excessive force").

The court presumes, without deciding, that plaintiff's alleged injuries satisfy the objective component of an excessive-force claim. See id. at 238 (noting even a "minor" injury can be actionable if it "rises above the level of *de minimus* harm"). Nevertheless, the court that finds that Deas' use of force, on the balance, was not excessive under the Whitley standard.

As to the first Whitley factor – "the need for the application of force" – under DPS Policies and Procedures, "[h]ands-on physical force . . . may be used: (1) to restrain or move a non-aggressive, non-compliant inmate"; (2) "to subdue an aggressive inmate when pepper spray is not effective or is not feasible," or (3) . . . "to ensure compliance with a lawful order." Def.'s App., Ex. A [D.E. 38-2] at .1504(a); see id. at .1502(d) (defining "hands-on physical force" as "any degree of physical force exerted by a staff member using bodily strength including approved unarmed self-defense techniques."); see also id., Ex. B [D.E. 38-3] at 1 (Maury Standard Operating Procedures defining "use of force" as "[a]ny physical, mechanical, or chemical element that is used to induce an inmate to comply with a lawful order," and "hands on physical force" as "any

degree of physical force exerted by a staff member using bodily strength including approved unarmed self-defense techniques."); id. at 2 ("An Officer is authorized to use whatever degree of force that reasonably appears to be necessary to defend the Officer or a third party from imminent assault. Reasonable force is authorized . . . to ensure compliance with a lawful order . . . "); id. "An Officer shall not strike or attempt to strike an inmate who has abandoned his resistance or who is effectively restrained.").

Here, plaintiff admits that he refused orders to leave the "holding cubicle" and return to his cell, that he pulled away from Deas, and that he attempted to headbutt Deas. See Def.'s Stmt. Mat. Facts [D.E. 37] at ¶¶8, 10, 12, 13; Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶8, 10, 12, 13. The available video evidence accords with these admissions. See Def.'s App., Ex. C. Plaintiff was not entitled to disobey lawful orders and struggle against Deas.[5] See, e.g., Lewis v. Downey, 581 F.3d 467, 476 (7th Cir. 2009) ("Inmates cannot be permitted to decide which orders they will obey, and when they will obey them. . . . Inmates are and must be required to obey orders. When an inmate refuse[s] to obey a proper order, he is attempting to assert his authority over a portion of the institution and its officials. Such refusal and denial of authority places the staff and other inmates in danger."). Because the record supports a finding that Deas' use of force was a necessary response to plaintiff's non-compliance with verbal commands and plaintiff's aggressive actions toward Deas, the first Whitley factor favors Deas.

The court now turns to the second Whitley factor – "the relationship between the need and the amount of force that was used." Succinctly stated, the record does not indicate that Deas'

[5] On November 30, 2017, the date of the use-of-force event in question, plaintiff was cited for various disciplinary infractions, to include threatening to harm or injure staff. See N.C. Dep't of Pub. Safety, Offender Pub. Info. https://webapps.doc.state.nc.us/opi/viewoffenderinfractions.do?method=view&offenderID=1398952&listpage=1&listurl=pagelistoffendersearchresults&searchOffenderId=1398952&searchDOBRange=0&obscure=Y (Aug. 19, 2020).

hands-on force was greater than necessary to achieve the penological objective. Rather, the evidence shows that, although plaintiff was in restraints, plaintiff: disregarded orders to leave the cubicle; pulled away from Deas' soft touch; pulled away again once Deas grasped his restraints; attempted to headbutt Deas; and continued struggling against Deas until other officers intervened. See Def.'s App., Ex. C. The court declines the invitation to second-guess Deas' split-second decision to use hands-on force in these circumstances. See Graham v. Connor, 490 U.S. 386, 396-97 (1989) (explaining that "police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation" and that courts must consider such circumstances when determining whether a constitutional violation occurred); Whitley, 475 U.S. at 321 ("When the ever-present potential for violent confrontation and conflagration, . . . ripens into actual unrest and conflict, the admonition that a prison's internal security is peculiarly a matter normally left to the discretion of prison administrators . . . carries a special weight." (internal quotations and citations omitted)); Bell v. Wolfish, 441 U.S. 520, 547 (1979) ("[T]he problems that arise in the day-to-day operation of a corrections facility are not susceptible of easy solutions. Prison administrators therefore should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security."); Brooks, 924 F.3d at 113 ("[A] manifest and immediate need for the protective use of force gives rise to a powerful logical inference that officers in fact used force for just that reason."); see also Crayton v. Adams, No. 7:13–cv–00078, 2013 WL 5918508, at *1 (W.D.Va. Nov. 1, 2013) ("Federal courts are poorly equipped to second guess the split second security decisions of prison officials."). Thus, the second Whitley factor also favors Deas.

As to the third Whitley factor – "the extent of any reasonably perceived threat that the application of force was intended to quell" – the record reflects that the threat presented by plaintiff refusing to leave the "holding cubicle," pulling away from Deas, and attempting to headbutt Deas are patent and were "reasonably perceived." Thus, the third Whitley factor also favors Deas.

As to the fourth Whitley factor – "any efforts made to temper the severity of a forceful response" – as noted above, the parties disagree whether Deas ordered plaintiff to leave the cell or applied "soft touch." Compare Pl.'s Opposing Stmt. Mat. Facts [D.E. 53] at ¶¶7, 9, with Deas Aff., [D.E. 38-6] at ¶¶7–9. The video, however, reflects that plaintiff was ordered, by gesture at minimum, to leave the cell before Deas first attempted to use soft touch to extricate plaintiff. See Def.'s App., Ex. C. Thus, as to these matters at least, plaintiff's "version of events is so utterly discredited by the record that no reasonable jury could have believed him." Scott, 550 U.S. at 379–80; see also Witt v. W. Va. State Police, Troop 2, 633 F.3d 272, 276 (4th Cir. 2011) (noting that, although the court may not "reject a plaintiff's account on summary judgment" if the video evidence merely "offers *some* support for a governmental officer's version of events," "when a video 'quite clearly contradicts the version of the story told by [the plaintiff] . . . so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.'" (quoting and citing Scott, 550 U.S. at 378, 380) (alteration in original)). Although the video evidence reflects that Deas' use of force intensified in the brief struggle that followed plaintiff's attempted headbutt, the video also reflects, and plaintiff acknowledges, see Compl. [D.E. 1] at 6, other officers immediately intervened between Deas and plaintiff during that struggle. Accordingly, the fourth Whitley factor also favors Deas.

Although it is not a dispositive factor, plaintiff's lack of significant injury, as reflected both in the medical screening report, Defs.' App. [D.E. 38-5] at 20 (stating "no injury noted at this time."), and in plaintiff's complaint, Compl. [D.E. 1] at 7–8 (leaving blank the section of the complaint entitled "what was your injury," and elsewhere vaguely asserting that Deas' actions caused plaintiff unspecified "pain, suffering, physical injury, and emotional distress"), also weighs in favor of a finding that the force was not excessive. See Wilkins, 559 U.S. at 37 ("[T]he extent of injury suffered by the inmate is one factor that may suggest 'whether the use of force could plausibly have been thought necessary' in a particular situation." (citations omitted)).

After reviewing the record under the Whitley factors, and in the light most favorable to plaintiff, see Scott, 550 U.S. at 380, the court finds that, on the balance, plaintiff fails to satisfy the subjective component of an excessive-force claim because no reasonable jury would find that Deas acted maliciously and for the very purpose of causing harm. See Wilkins, 559 U.S. at 37; Hudson, 503 U.S. at 8; Whitley, 475 U.S. at 321; Iko, 535 F.3d at 239; cf. Brooks, 924 F.3d at 114 (holding a genuine dispute of material fact precluded summary judgment where an officer used pepper spray on a plaintiff who was no longer resisting and was then laying on the ground). Thus, because no genuine issue of material fact exists, Deas is entitled to summary judgment. See Anderson, 477 U.S. at 249.

Alternatively, as a government official, Deas is entitled to qualified immunity from civil damages so long as his "conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). In other words, a defendant is entitled to qualified immunity when (1) the plaintiff has not demonstrated a violation of a constitutional right, or (2) the court concludes that the right

at issue was not clearly established at the time of the official's alleged misconduct. See Pearson v. Callahan, 555 U.S. 223, 236 (2009). A Government official's conduct violates clearly established law when, at the time of the challenged conduct, the contours of a right are sufficiently clear that every reasonable official would have understood that what he is doing violates that right." Ashcroft v. al-Kidd, 563 U.S. 731, 741 (2011) (alterations and quotations omitted).

Here, the court finds that Deas' use of hands-on physical force in this instance was an objectively reasonable response to plaintiff's aggressive actions such that a reasonable officer in Deas' position would not have recognized that his actions violated plaintiff's Eighth Amendment rights. See id. at 743 ("When properly applied, [qualified immunity] protects 'all but the plainly incompetent or those who knowingly violate the law.'" (citation omitted)); see also Malley v. Briggs, 475 U.S. 335, 341 (1986) ("Under the *Harlow* standard . . . an allegation of malice is not sufficient to defeat immunity if the defendant acted in an objectively reasonable manner. The *Harlow* standard is specifically designed to 'avoid excessive disruption of government and permit the resolution of many insubstantial claims on summary judgment . . . .'"). Thus, Deas likewise is entitled to a finding of qualified immunity.

Conclusion:

For the reasons discussed above, the court: DENIES plaintiff's motion for appointment of counsel [D.E. 51]; GRANTS defendant's motion for summary judgment [D.E. 35]; DISMISSES the complaint [D.E. 1]; and DIRECTS the clerk to close the case.

SO ORDERED, this 26th day of August 2020.

Richard E Myers II

RICHARD E. MYERS II
United States District Judge

FILED: December 28, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7345
(5:18-ct-03113-M)

QUENTIN FREEMAN

Plaintiff - Appellant

v.

DANIEL DEAS

Defendant - Appellee

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Agee, Judge Rushing, and Judge Benjamin.

For the Court

/s/ Nwamaka Anowi, Clerk

UNITED STATES DISTRICT COURT
Eastern District of North Carolina
Western Division

CASE NO. 5:18-CT-3113-FL
(To be filled out by Clerk's office only)

QUENTIN FREEMAN

(In the space above enter the full name(s) of the plaintiff(s)

Inmate Number #1398952

COMPLAINT
(Pro Se Prisoner)

Jury Demand?
☒ YES
☐ NO

- against -

Correctional Officer FNU Deas

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

I. COMPLAINT

(Indicate below the federal legal basis for your claim, if KNOWN. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☑ 42 U.S.C. § 1983 (State, county, or municipal defendants).

☐ Action under Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971) (federal defendants)

☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Quentin Freeman
NAME

#1398952
PRISONER ID #

Maury Correctional Institution
PLACE OF DETENTION

P.O. Box 506
INSTITUTIONAL ADDRESS

Maury	NC	28554
City	State	Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

☐ Pretrial detainee ☐ State ☐ Federal
☐ Civilly committed detainee
☐ Immigration detainee
☑ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner

IV. DEFENDANT (S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Additional sheets of paper as necessary.

Defendant 1: Correctional Officer ENU Deas
Name

Correctional Officer
Current Job Title

Maury Correctional Institution, 2568 Moore House Rd.
Current Work Address

Hoke rton NC 28538
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☑ Both

Defendant 2: _____
Name

_____
Current Job Title

_____
Current Work Address

_____
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

Defendant(s) Continued

Defendant 3: _____
Name

_____
Current Job Title

_____
Current Work Address

_____
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

Defendant 4: _____
Name

_____
Current Job Title

_____
Current Work Address

_____
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

V. Statement of Claim

Place(s) of Occurrence: Maury Correctional Institution - Grass ~~blurt~~ hallway/holding cages.

Date(s) of Occurrence: 11-30-2017

State which of your federal constitutional or federal statutory rights have been violated: Eighth ~~Ame~~ Amendment violation (Cruel & Unusual Punishment, & Excessive Use of Force).

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

On 11-30-2017 sometime after 5:00 pm I was physically assaulted by c/o Deas. I was being escorted back from the receiving room (in full restraints) & forced to walk without my cane (which I need). I stopped at the holding cages to sit & wait for my cane to be retrieved from Mr. Burgess' office (unit manager). At this time Sergeant Tyson told c/o Heath to go & check my cell for the cane, if said cane was there he was to bring it to my person.

Who did what to you?

While waiting, c/o Deas approached the cages & opened the door wide, leaned with his back against the wall & in an unprofessional manner (conduct unbecoming) started to taunt me, belittle me & call me all types of disrespectful, profane names - (SEE VIDEO) -. After words were exchanged, he snapped & burst into the cage, grabbed my cuffs/waistchain & pulled me down off the seat in which I was standing on (my feet were shackled) & commenced to throw a flurry of closed fisted punches to my face, head & neck - (SEE VIDEO) -, all the while holding my handcuffs with one hand. While still in a rage

What happened to you?

& punching me in multiple areas above the shoulders, c/o Deas was pulled off of my person by multiple officers - (SEE VIDEO) - & forced away towards the entrance to gray unit & the conference room, at which point he broke away - (SEE VIDEO) - & tried to attack my person again, but was finally restrained & escorted off the unit screaming & thrashing about. - (SEE VIDEO) - I was in full restraints & in a single man holding cage with 2 officers & a sergeant overseeing my well being at the time of the incident/ assault.

When did it happen to you?

Where did it happen to you?

What was your injury?

Exhaustion of Administrative Remedies

Plaintiff has exhausted his administrative remedies with respect to all claims & all defendants. (See attachment).

Claims For Relief

Defendant Deas used excessive force against Plaintiff by punching/hitting Plaintiff in the face, head, neck, & body when Plaintiff was not violating any prison rules, & was not acting disruptively. Defendant Deas actions violated Plaintiffs rights under the Eighth Admendment to the United States Constitution, & caused Plaintiff pain, suffering, physical injury & emotional distress.

Defendant Deas used & continues to use excessive force against Plaintiff by punching/hitting Plaintiff in the face, head, neck, & body repeatedly when Plaintiff was/is not violating any prison rules, or acting disruptively in any way. Defendants Deas action violated & continues to violate Plaintiffs rights under the Eighth Amendment to the United States Constitution, & is causing Plaintiff pain, suffering, physical injury & emotional distress.

Defendant Deas used excessive force against Plaintiff by punching/hitting Plaintiff in the face, head, neck, & body repeatedly while Plaintiff was in full restraints (handcuffs, black box, waist chain, padlock, & shackles/leg restraints).

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e (a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint?
☒ Yes ☐ No

If no, explain why not:

Is the grievance process complete? ☒ Yes ☐ No
If no, explain why not:

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

WHEREFORE, plaintiff respectfully prays that this Court enter judgement granting plaintiff the following:

(A): AWARD COMPENSATORY damages in the amount of $100,000 against defendant Deas.

(B): AWARD PUNITIVE damages in the amount of $50,000 against defendant Deas.

(C): A jury trial on all issues triable by jury.

(D): Plaintiff's costs in this suit.

(E): Any additional relief this court deems just, proper, & equitable.

VIII. PRISONER'S LITIGATION HISTORY

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has "on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915 (g).

Have you brought any other lawsuits in state or federal court while a prisoner? ☑ Yes ☐ No

If yes, how many? 2

Number each different lawsuit below and include the following:

- Name of case (including defendants' name), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

(1) Quentin Freeman vs. Enu McClatinock
3:16-cv-676-FDW
Western District of North Carolina
Dismissed for failure to state a claim.
- Deliberate indifference to a serious medical need."

(2) Quentin Freeman v c/o Coley
5:17-ct-3238-FL
Eastern District of North Carolina
Still pending.
- Excessive Use of Force -

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

3-26-2018
Dated

Plaintiff's Signature

QUENTIN FREEMAN
Printed Name

1398952
Prison Identification #

P.O. Box 506 | Maury | NC | 28554
Prison Address | City | State | Zip Code

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN 32a DISTRICT OF NORTH CAROLINA

QUENTIN FREEMAN, Plaintiff V. CORRECTIONAL OFFICER FNU DEAS, Defendant	DECLARATION OF QUENTIN FREEMAN

QUENTIN FREEMAN states:

1. I am the plaintiff in the above-entitled actions, & I am currently incarcerated at Maury Correctional Institution.

2. At the time of these events relevant hereto, I was incarcerated at Maury Correctional Institution.

3. I was assaulted/beat by c/o Deas on 11-30-2017.

4. Upon information & belief the gray unit hallway camera can see me in holding cell in full restraints.

5. Upon information & belief the gray unit hallway camera can see c/o Deas open holding cell door & lean back against the wall.

6. Upon information & belief the gray unit hallway camera can see c/o Deas enter holding cell, grab cuffs / waist chain & pull me down off the seat which I was standing on with shackles on, & began to throw closed fisted punches to my face, head, neck & body, while holding my handcuffs with one hand.

7. Upon information & belief the gray unit hallway camera can see c/o Deas being pulled off of me by multiple officers & forced away towards the entrance to gray unit, at which time he (c/o Deas) broke away & tried to attack me again, but was finally restrained & escorted off the unit screaming & thrashing about.

8. Upon information & belief the gray unit hallway camera can see that the entire time (before, during & after) incident, I was in full restraints & did not break any prison rules.

Quentin Freeman #1398952
Maury Correctional Institution
P.O. Box 506
Maury, NC 28554

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CARDLINA

QUENTIN FREEMAN, Plaintiff V. CORRECTIONAL OFFICER FNU DEAS, Defendant	COMPLAINT WITH JURY TRIAL DEMANDED.

COMPLAINT WITH JURY DEMAND
- INTRODUCTION-

This is a civil rights action filed by Quentin Freeman, a state prisoner, for damages & relief under 42 U.S.C. § 1983, alleging excessive use of force, & cruel & unusual punishment, in violation of the Eighth Amendment to the United States Constitution.

JURISDICTION & VENUE

1.) This court has jurisdiction over the plaintiff's claims of violation of Federal Constitional Rights under 42 U.S.C. §§ 1331 (1) & 1343.

2.) Venue properly lies in this district pursuant to 28 U.S.C. §§ 1391 (b)(2), because the events giving rise to this cause of action occurred at Maury Correctional Institution

in Hookerton, North Carolina, which is located within the Eastern District of North Carolina.

North Carolina Department of Public Safety

Prisons

Roy Cooper, Governor
Erik A. Hooks, Secretary

Kenneth E. Lassiter, Director

Step One - Unit Response

Regarding Grievance No.: 4875-2017-NPODE06605
Received: 12/04/2017

Inmate: FREEMAN, QUENTIN D - 1398952
Location: 4875-MAURY CI - NPODE005

In response to your grievance #06605, the incident referred to in your grievance is currently under investigation. All actions deemed necessary will be taken at the conclusion of said investigation. Your grievance is considered to be resolved at this level.

12/04/2017 — *Date*
BURGESS, ROBERT N — *Staff Electronic Signature*

(A)____ Agree with grievance response

(B)____ Appeal to Step Two (24-hour limit)

Date — *Inmate Signature*

Date — *Witness Signature (optional)*

cc: CTS

MAILING ADDRESS:
PO BOX 506
MAURY, NC 28554-0506

OFFICE LOCATION:
2568 MOORE ROUSE RD
HOOKERTON, NC 28538-7276
Telephone: (252)747-1400
Fax: (252)747-5807

WWW.NCDPS.GOV

North Carolina Department of Public Safety
Prisons

Roy Cooper, Governor
Erik A. Hooks, Secretary

Kenneth E. Lassiter, Director

Step Two - Area/Complex/Institution Response

Regarding Grievance No.: 4875-2017-NPODE06605
Received: 12/04/2017

Inmate: FREEMAN, QUENTIN D - 1398952
Location: 4875-MAURY CI - NPODE005

Step I response is appropriate. No further action is needed at this time.

12/17/2017 — *Date*
COLEY, CAROLEE N — *Staff Electronic Signature*

(A)____ Agree with grievance response
(B)__X__ Appeal to Secretary, DPS (24-hour limit)

12/18/17 — *Date*
Inmate Signature

Date
Witness Signature(optional)

cc: CTS

MAILING ADDRESS:
PO BOX 586
MAURY, NC 28554-0586

OFFICE LOCATION:
2568 MOORE HOUSE RD
HOOKERTON, NC 28538-7276
Telephone: (252)747-1400
Fax: (252)747-5807

WWW.NCDPS.GOV

North Carolina Department of Public Safety
Division of Adult Correction
Inmate Grievance Resolution Board
PO BOX 506, MAURY, NC 28554-0506

State of North Carolina
Roy Cooper
Governor

Kimberly D. Grande
Executive Director

Members
H. Gerald Beaver, Esq.
Robert E. Campbell, Esq.
James D. Foster, Esq.
Jonathan D. Franklin
Kenneth Raymond

Step Three - Administrative Remedy Response

Inmate: **FREEMAN, QUENTIN D**
Inmate #: **1398952**
Location: **4875-MAURY CI - NPODE005**

GRB Grievance No: **06394**
Unit Grievance No: **4875-2017-NPODE-06605**
Date Received: **12/20/2017**

Grievance Examiner: Findings and Disposition Order

Quentin Freeman filed this grievance on 11/30/17 at Maury Correctional Institution. He stated that he was treated unfair when staff used unnecessary force against him and verbally assaulted him.

This examiner has carefully reviewed the grievance and the response given by staff in the DC-410A response. From this review, it appears that staff has adequately addressed this inmate's grievance concerns. I adopt the facts found by the staff investigator.

On this record, it appears that proper action has been taken by staff to resolve this inmate's grievance concerns. Therefore, this grievance is considered resolved by DPS staff.

01/05/2018 — *Date*

WALLACE, ELIZABETH D — *Inmate Grievance Examiner Electronic Signature*

cc: CTS

DC-138B
Rev. 2/08

STATEMENT BY WITNESS

Staff ☐ Inmate ☐ Other ☐ Name: Quentin Freeman NCDPS: (Inmate Only) 1398952

Position or Title of Witness: (Staff Only- Include Staff ID) _____

Name and OPUS Number of Accused Inmate(s): _____

Name of Person obtaining statement: _____

Date: 12/4/17 Time: _____

FOR ACCUSED INMATE USE ONLY:

I request written statements be gathered in my behalf: ☑ Yes ☐ No. If yes, list names: Jose Valentine Grey Unit #3

I request live witness(es) be present at my hearing: ☑ Yes ☐ No. If yes, list names: Jose Valentine Grey Unit #3

I request physical evidence be reviewed at my hearing: ☑ Yes ☐ No Video Footage

I request staff assistance at my hearing: ☑ Yes ☐ No Inmate Initials QF

(Note: This statement must give a factual account of the events witnessed. Of particular importance is information as to what was observed, where and when it occurred, who was involved, names of other witnesses to the event, and if possible, any factual information relative to possible reasons for the misconduct.)

ON 11/30/17 WHILE IN FULL RESTRAINTS I WAS ASSAULTED BY "C.O. DEAS". AFTER BEING ESCORTED BACK FROM THE RECEIVING ROOM (IN FULL RESTRAINTS) & FORCED TO WALK WITHOUT MY CANE (WHICH I NEED) I SAT IN THE HOLDING CAGE TO WAIT FOR MY CANE TO BE RETRIEVED FROM MR. BURGESS' OFFICE SGT. TYSON TOLD C.O. HEATH TO CHECK MY CELL FOR THE CANE IF IT WAS THERE HE WAS TO BRING IT. WHILE WAITING; "C.O. DEAS" APPROACHED THE CAGES, OPENED THE DOOR & MOVED BACK, LEANING AGAINST THE WALL, & IN AN UNPROFESSIONAL MANNER (CONDUCT UNBECOMING) STARTED TO TAUNT ME, BELITTLE ME & CALL ME ALL TYPES OF DISRESPECTFUL PROFANE NAMES — SEE VIDEO — AFTER WORDS WERE EXCHANGED; HE SNAPPED & BURST INTO THE CAGE, GRABBED MY CUFFS/WAISTCHAIN & PULLED ME DOWN, OFF THE SEAT IN WHICH I WAS STANDING & COMMENCED

(Statement may be continued on an attached sheet.)

I have read the above statement and affirm that it is based on personal observation of the events described and that it is, to the best of my knowledge. a true and accurate statement of fact.

Signature of witness _____ Date 12/4/17 Time _____

DC-138B
Rev. 2/08

STATEMENT BY WITNESS

Staff ☐ Inmate ☐ Other ☐ Name: Quentin Freeman NCDPS: (Inmate Only) 1398952

Position or Title of Witness: (Staff Only- Include Staff ID) _____

Name and OPUS Number of Accused Inmate(s): _____

Name of Person obtaining statement: _____

Date: 12/4/17 Time: _____

FOR ACCUSED INMATE USE ONLY:

I request written statements be gathered in my behalf: ☑ Yes ☐ No. If yes, list names: Jose Valentine Gray unit C#3

I request live witness(es) be present at my hearing: ☑ Yes ☐ No. If yes, list names: Jose Valentine Gray unit C#3

I request physical evidence be reviewed at my hearing: ☑ Yes ☐ No Video Footage

I request staff assistance at my hearing: ☐ Yes ☐ No Inmate Initials QF

(Note: This statement must give a factual account of the events witnessed. Of particular importance is information as to what was observed, where and when it occurred, who was involved, names of other witnesses to the event, and if possible, any factual information relative to possible reasons for the misconduct.)

TO THROW A FLURRY OF CLOSED FISTED PUNCHES TO MY FACE, HEAD & NECK - SEE VIDEO - WHILE STILL IN A RAGE & PUNCHIN ME IN MULTIPLE AREAS ABOVE MY SHOULDER, "C.O. DEAS" WAS PULLED OF OF MY PERSON BY MULTIPLE OFFICERS — SEE VIDEO — & FORCED AWAY TOWARDS THE ENTRANCE TO GRAY UNIT, AT WHICH TIME HE BROKE AWAY & TRIED TO ATTACK MY PERSON AGAIN - SEE VIDE BT WAS FINALLY RESTRAINED & ESCORTED OFF THE UNIT SCREAMING & THRASHING ABOUT... "SEE VIDEO"!

AT NO TIME DID I BREAK ANY RULES. I WAS IN FULL RESTRAINTS, IN A SINGLE MAN CAGE WITH 2 OFFICERS & A SERGEANT OVERSEEING MY CARE, CUSTODY & CONTROL WHEN C.O. DEAS [redacted] ASSAULTED ME.

(Statement may be continued on an attached sheet.)

I have read the above statement and affirm that it is based on personal observation of the events described and that it is, to the best of my knowledge. a true and accurate statement of fact.

Signature of witness _____ Date _____ Time _____

QUENTIN FREEMAN #1398952
MAURY CORRECTIONAL INSTITUTION
P.O. BOX 506
MAURY, NC 28554

MAILED FROM
MAURY CORRECTIONAL
INSTITUTION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF N.C.
P.O. BOX 25670
RALEIGH, NC 27611

CONFIDENTIAL
LEGAL MAIL