

United States Court of Appeals
For the Eighth Circuit

No. 19-2969

Anthony Dewayne Walker

Plaintiff - Appellant

v.

Wendy Kelley, Director, ADC (originally named as Wendy Kelly); Jeremy
Andrews, Warden, EARU; Kenyon Randle, Captain, EARU; Leroy Golatt,
Lieutenant, EARU

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Arkansas - Helena

Submitted: July 7, 2020

Filed: July 16, 2020

[Unpublished]

Before GRASZ, BEAM, and KOBES, Circuit Judges.

PER CURIAM.

Arkansas prisoner Anthony Walker appeals following the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action related to prison disciplinary proceedings. Having carefully reviewed the record and the parties' arguments on appeal, we find no basis for reversal. We conclude that the dismissal of Walker's due process claim was proper because he failed to allege that his punishment amounted to an atypical and significant hardship. See Moore v. Sims, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam) (28 U.S.C. § 1915(e) dismissal for failure to state a claim is reviewed de novo); Sandin v. Conner, 515 U.S. 472, 484-87 (1995) (due process liberty interests are generally limited to freedom from restraint that imposes atypical and significant hardship on inmate in relation to ordinary incidents of prison life). We also conclude that the district court properly granted summary judgment on Walker's equal protection claim, as he failed to show that defendants treated him differently from similarly situated inmates. See Hartsfield v. Nichols, 511 F.3d 826, 829 (8th Cir. 2008) (grant of summary judgment is reviewed de novo); Phillips v. Norris, 320 F.3d 844, 848 (8th Cir. 2003) (discussing requirements for equal protection claims).

Finally, to the extent Walker challenges the magistrate judge's denial of his motions to compel and for appointment of counsel, those rulings are not properly before us. See McDonald v. City of Saint Paul, 679 F.3d 698, 709 (8th Cir. 2012) (appellate court could not review magistrate judge's order denying non-dispositive motion, because appellant failed to object to order before district court). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Patricia S. Harris, United States Magistrate Judge for the Eastern District of Arkansas.