

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LANIER THOMPSON,

Plaintiff,

Case No. 1:12-cv-1327

v

HON. JANET T. NEFF

UNKNOWN SISSON, et al.,

Defendants.

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On March 4, 2013, this Court dismissed two defendants and allowed service of the complaint on Defendants Sisson, Fair and Richardson (Op. & Or., Dkts 16 & 17). On April 16, 2013, Defendants Sisson, Fair and Richardson moved for summary judgment, arguing that they were entitled to dismissal based on Plaintiff's failure to exhaust his administrative remedies (Dkt 28). Plaintiff responded to the motion (Dkts 34, 57 & 60), and Defendants filed a reply (Dkt 39). The matter was referred to the Magistrate Judge, and, on December 10, 2013, the Magistrate Judge issued a Report and Recommendation recommending that this Court grant in part and deny in part Defendants' motion (R&R, Dkt 61). The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Objs., Dkt 62). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

The Magistrate Judge determined that with respect to Plaintiff's allegations against Defendant Sisson regarding the alleged events of November 2, 2012, Defendant Sisson has failed to establish that Plaintiff has not properly exhausted his administrative remedies (R&R, Dkt 61 at 8-9). Specifically, the Magistrate Judge found the existence of a genuine issue of material fact on the question whether Plaintiff requested a grievance form and submitted the grievance in question, a copy of which was provided by Plaintiff (R&R, Dkt 61 at 8; Aff., Dkt 33 at 1; Attach., Dkt 33-1 at 6). As to Defendants Richardson and Fair, however, the Magistrate Judge determined that they carried their burden of demonstrating that Plaintiff failed to properly exhaust the claims asserted against them (*id.* at 9). The Magistrate Judge therefore recommends that Plaintiff's claims against Defendant Sisson regarding the alleged events of November 2, 2012 go forward, but Plaintiff's claims against Defendants Richardson and Fair be dismissed (*id.*).

In his objections to the Report and Recommendation, Plaintiff asserts that he "did in fact file an [sic] grievance on defendants Fair and Richardson," but that "that grievance was never process[ed]" (Objs., Dkt 62 at 1). Plaintiff does not, however, elaborate on his assertion in any way that would alter the Magistrate Judge's recommendation as to Defendants Fair and Richardson. The remainder of the page Plaintiff devotes to discussion of the Magistrate Judge's decision appears to pertain only to whether he submitted a grievance concerning the November 2, 2012 incident, a grievance that named only Defendant Sisson (*id.* at 1).¹ Plaintiff's argument therefore fails to demonstrate any factual or legal error in the Magistrate Judge's recommendation that Plaintiff's claims against Defendants Richardson and Fair be dismissed.

¹Plaintiff devotes the remaining pages of his document to reiterating his requests for a jury trial (Objs., Dkt 62 at 2-6) and discovery (*id.* at 7-10), requests that he has also made in other motions and that are not addressed herein.

Accordingly, this Court denies Plaintiff's objections and approves and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 62) are DENIED, and the Report and Recommendation (Dkt 61) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (Dkt 28) is GRANTED IN PART and DENIED IN PART, in the manner and for the reasons stated in the Report and Recommendation.

Dated: March 20, 2014

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge