

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 09-1710

Robert L. Kern,

Appellant,

v.

Scott Francik, Employed as
Correctional Counselor at Anamosa
State Penitentiary; John Ault,
Employed as Warden (now ex-warden)
at Anamosa State Penitentiary; John
Fayram, Employed as Deputy Warden
at Anamosa State Penitentiary; Jerry
Connolly, Hospital Administrative
Director of Nursing at Anamosa State
Penitentiary; Christopher Meeks, was
Employed as Deputy Director of
Corrections, Central Office, 510 East
12th Street, Suite 3, Des Moines, IA
50319; William Sperfslage, Employed
as Deputy Warden at Iowa State
Penitentiary; Dennis W. Brumbaugh,
Employed as a Unit Manager in
Cellhouse 419 at the Iowa State
Penitentiary; Richard Larkin, Employed
as a Correctional Counselor at
Cellhouse 419 at the Iowa State
Penitentiary,

Appellees.

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* Appeal from the United States
* District Court for the
* Southern District of Iowa.

* [UNPUBLISHED]

Submitted: January 28, 2010
Filed: February 4, 2010

Before BYE, RILEY, and SHEPHERD, Circuit Judges.

PER CURIAM.

Iowa inmate Robert Lee Kern appeals the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action alleging retaliatory transfer. Reviewing de novo, see Anderson v. Larson, 327 F.3d 762, 767 (8th Cir. 2003) (standard of review), we agree with the district court that the summary judgment record did not support a claim of retaliatory transfer, see Sisneros v. Nix, 95 F.3d 749, 752 (8th Cir. 1996) ("In a retaliatory transfer case, 'the burden is on the prisoner to prove that but for an unconstitutional, retaliatory motive the transfer would not have occurred.'" (citation omitted)). Additionally, we find no merit to Kern's appellate arguments that his counsel was ineffective, see Watson v. Moss, 619 F.2d 775, 776 (8th Cir. 1980) (per curiam) (no right to effective assistance of counsel in civil case), and that he was not afforded sufficient discovery, see Pony Computer, Inc. v. Equus Computer Sys. of Mo., 162 F.3d 991, 996 (8th Cir. 1998) (where plaintiff moved to compel but failed to explain how additional discovery would provide support for any of its claims, district court did not abuse its discretion in granting summary judgment on record without further discovery). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.