

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

VICTORIA DIANE GARRETT,
ADC #708139

PLAINTIFF

V.

1:13CV00110 JLH/JTR

GUY, Deputy Warden,
McPherson Unit, ADC, et al.

DEFENDANTS

ORDER

Defendants Richard Guy, Nuzuhul Faust, Aundrea Weekly and Ponchitta Noles have filed a Motion for Summary Judgment on the issue of exhaustion, a Brief in Support, and a Statement of Undisputed Facts. *Docs. 19, 20, and 22*. Plaintiff must respond.

At the summary judgment stage, a plaintiff cannot rest upon mere allegations and, instead, must meet proof with proof. *See Fed. R. Civ. P. 56(e)*. This means that Plaintiff's Response must include her legal arguments, as well as affidavits,¹ prison records, or other evidence establishing that there is a genuine issue of material fact that must be resolved at a hearing or trial.

¹ The affidavit must be based upon the personal knowledge of the person executing the affidavit *and must be either*: (1) sworn and subscribed to by a notary public; or (2) executed under penalty of perjury, as provided for by 28 U.S.C. § 1746.

Furthermore, pursuant to Local Rule 56.1, Plaintiff must *also separately* file a Statement of Disputed Facts, which lists: (a) any disagreement she has with the specifically numbered factual assertions in the Defendants' Statement of Undisputed Facts (*Doc. 22*); and (b) any other disputed facts that she believes must be resolved at a hearing or trial.²

Finally, Plaintiff is advised that if she intends to rely on documents that have been previously filed in the record, she must specifically refer to those documents by docket number, page, date, and heading. The Court will not sift through the file to find support for Plaintiff's factual contentions. *See Crossley v. Georgia-Pacific, Corp.*, 355 F.3d 1112, 1113-14 (8th Cir. 2004) (affirming the grant of summary judgment because a plaintiff failed to properly refer to specific pages of the record that supported his position).

IT IS THEREFORE ORDERED THAT:

1. Plaintiff must file, **within thirty days of the entry of this Order**, a Response to Defendants Richard Guy, Nuzuhul Faust, Aundrea Weekly and Ponchitta Noles' Motion for Summary Judgment and a separate Statements of Disputed Facts that complies with the Fed. R. Civ. P. 56, Local Rule 56.1, and the instructions in this

² If Plaintiff disputes any of the facts in Defendants' Statements of Undisputed Facts, she *must identify* each numbered paragraph that contains the facts he disputes *and*, for each paragraph, explain *why* she disputes those facts.

Order.

2. Plaintiff is advised that the failure to timely and properly comply with this Order will result in: (a) all of the facts in Defendants' summary judgment papers being deemed admitted by Plaintiff, pursuant to Local Rule 56.1(c); or (b) the dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2).

Dated this 18th day of June, 2014.



UNITED STATES MAGISTRATE JUDGE