

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

KRISTINA QUARLES
ADC #760441

PLAINTIFF

v.

No. 1:15-cv-107-DPM-JTK

RHONDA CAMPBELL, Officer, Food Service
Security, McPherson Unit, ADC; CODIE ODOM,
Corporal (now Food Service Security), McPherson
Unit, ADC; CHRISTOPHER FISK, Officer, CO-I,
McPherson Unit, ADC; and PANSY RUCKER,
Captain, Food Service, McPherson Unit, ADC

DEFENDANTS

ORDER

1. In light of Quarles's response and attached unit-level grievances, *No 28 at 3-4*, the Court declines the recommendation without prejudice. *No 27*. Her grievances don't necessarily mean Quarles exhausted her claims. For example, there's no evidence she appealed either grievance; and it seems unlikely she had time to appeal the second one before filing her complaint. But the Defendants bear the burden on exhaustion. *Nerness v. Johnson*, 401 F.3d 874, 876 (8th Cir. 2005). In light of the new attachments, the Court would appreciate another recommendation. A more detailed declaration from the Defendants might be helpful at this point too. *No 13-2*. The Court, though, leaves that matter in Magistrate Judge Kearney's hands.

2. Quarles's motion for a directed verdict, *No 29*, is denied. The incident she complains about in that motion happened after she filed this lawsuit and isn't part of this case. *Johnson v. Jones*, 340 F.3d 624, 627-28 (8th Cir. 2003).

3. The Court refers this case back to Magistrate Judge Kearney for another recommendation.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

18 December 2015