

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

ANTHONY L. PAYTON
REG. #24245-076

PLAINTIFF

v.

No. 2:13-cv-92-DPM-JJV

N. THOMPSON, SIS, FCI Forrest City;
DOES, DHO Hearing Officer, Jail Lieutenant "Josie,"
Officers of Special Housing Unit, Unit
Manager, Helena D Unit, and Mental Health
Doctors; BURNETT, Counselor, FCI Forrest
City; and J. SIEJA, Lieutenant, SHU, FCI Forrest City¹

DEFENDANTS

ORDER

On *de novo* review, the Court adopts the proposed findings and recommendation, *No 38*, as supplemented and overrules Payton's objections, *No 39 & 40*. FED. R. CIV. P. 72(b)(3). The statutory bar is clear, and neither of the narrow exceptions articulated in *Gibson v. Weber*, 431 F.3d 339, 341 (8th Cir. 2005) applies. Payton had an opportunity to submit documents justifying his untimely appeal, but didn't. *No 28-1 at 3-4, 11-12*. And he doesn't argue that any official thwarted his attempt to provide that documentation. Defendants' motion for summary judgment, *No 26*, is granted. The Doe Defendants are dismissed without prejudice. FED. R. CIV.

¹The Clerk is directed to correct the docket sheet to reflect "J. SIEJA, Lieutenant, SHU, FCI Forrest City."

P. 4(m). Payton's request, No 41, is denied.

So Ordered.

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

20 January 2015