

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

**MICHAEL AUGUSTINE,
Reg. #07006-025**

PLAINTIFF

v.

No. 2:15-cv-115-DPM

**N. THOMAS, Lieutenant, FCI Forrest City;
HAWKINS, Case Manager; T. RADSON,
Counselor, FCI Forrest City; RELVES, Captain,
FCI Forrest City; MYERS, SIA Lieutenant, FCI
Forrest City; B. HUNT; Unicorn Officer; RIVIERA,
Warden, FCI Forrest City; WATSON, SHU Lieutenant,
FCI Forrest City; DUBE-GILLEY, Unit Manager, FCI
Forrest City; BRADSHAW, Corrections Officer;
HAULK, Corrections Officer; and JOHN DOES**

DEFENDANTS

ORDER

The Court must screen Augustine's complaint and amended complaint.

28 U.S.C. § 1915A.

1. Augustine's Fourteenth Amendment allegations fail to state a claim.

He didn't have a federally protected liberty interest in avoiding placement in the Special Housing Unit for three months. *Sandin v. Conner*, 515 U.S. 472, 484 (1995); *Phillips v. Norris*, 320 F.3d 844, 847 (8th Cir. 2003); *Orr v. Larkins*, 610 F.3d 1032, 1034 (8th Cir. 2010). Accordingly, he didn't have a constitutional right to a hearing or other due process protections before being placed in that

part of the prison. *Ibid.* Nor did he have the right to have Defendants comply with internal rules about periodically reviewing his SHU placement. *Phillips*, 320 F.3d at 847.

2. Augustine's conclusory equal protection allegation also fails to state a claim. Augustine hasn't pleaded any facts suggesting Defendants purposefully treated him differently than other similarly situated prisoners. *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009); *Patel v. United States Bureau of Prisons*, 515 F.3d 807, 815 (8th Cir. 2008).

3. Augustine's Eighth Amendment allegation fails to state a claim as well. Nothing in his complaints suggests the conditions he endured in the SHU amounted to cruel and unusual punishment. *Hudson v. McMillian*, 503 U.S. 1, 9 (1992); *Phillips*, 320 F.3d at 848.

4. Augustine's complaints will be dismissed without prejudice for failure to state a claim. An *in forma pauperis* appeal from this Order and accompanying Judgment will not be taken in good faith. 28 U.S.C. §§ 1915(a)(3).

So Ordered.

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

11 September 2015