Story v. Jackson et al Doc. 69

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

KENDRICK STORY
ADC # 109934 PLAINTIFF

v. No. 5:13-cv-133-DPM-JJV

MOSES JACKSON, III, Major, Randall L. Williams Unit, ADC; MINNIE L. DRAYER, Disciplinary Hearing Officer, ADC; JOHN LOWE, Deputy Warden, Randall L. Williams Unit, ADC; RAYMOND NAYLOR, Hearing Administrator, ADC; and MARK CASHION, Warden DEFENDANTS

ORDER

On *de novo* review, the opposed recommendation, *№ 66*, is adopted as modified and supplemented. FED. R. CIV. P. 72(b)(3). Story's objections, *№ 67 & 68*, create a dispute of material fact about whether he fully exhausted his administrative remedies. Story says he tried to refile his then-ripe appeal on 3 September 2013, but Lieutenant McConnell didn't deliver or file it. *№ 68 at 1–2*. Defendants argue, and Story acknowledges in his stay motion, though, that his claims are *Heck*-barred. *№ 63*. The Court agrees. *Sheldon v. Hundley*, 83 F.3d 231, 233 (8th Cir. 1996). Defendants' motion for summary judgment,

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№ 56, is therefore granted. Story's motion for judgment, *№ 59*, and his motion for a stay, *№ 63*, are denied as moot.

So Ordered.

D.P. Marshall Jr.
United States District Judge

29 July 2014