

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

WALLACE A. GARDNER,
ADC #110784

PLAINTIFF

v.

No. 5:13-cv-216-DPM-BD

WILLIAM STRAUGHN, Warden, Maximum Security Unit, ADC; STEVE OUTLAW, Assistant Warden, Maximum Security Unit, ADC; BARBARA MATHEWS-GARDNER, Lieutenant, Maximum Security Unit, ADC; RICHARD CLARK, Sergeant, Maximum Security Unit, ADC; WERNETHA LYONS, Sergeant, Maximum Security Unit, ADC; ANGELA KENNEDY, CO-II, Maximum Security Unit, ADC; NICOLA KELLY, Sergeant, Maximum Security Unit, ADC; LANCE L. HALL, Lieutenant, Maximum Security Unit, ADC; KEITH CROCKET, Sergeant, Maximum Security Unit, ADC; MICHEAL LOWERY, CO-II, Maximum Security Unit, ADC; CHRISTOPHER GRIFFITH; and CONNIE JENKINS

DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts the partial recommendation, *No 116*, as modified. FED. R. CIV. P. 72(b)(3).

2. The modification: Gardner didn't name Kennedy or Clark in grievance MX-13-530. *No 109-3 at 1*. And Clark's investigating that grievance doesn't equal exhaustion as to him. Gardner had to name Clark in his initial

unit level grievance. *No 109-2 at 5*. Kennedy and Clark's objection, *No 117*, is therefore sustained; and Gardner's response, *No 118*, is overruled.

3. Motion for summary judgment, *No 109*, granted in part and denied in part. All Gardner's claims stemming from grievance MX-13-1225—including his claims against Kennedy and Clark—are dismissed without prejudice for failure to exhaust. Gardner's claims against Lowery, Griffin, and Jenkins are dismissed without prejudice for lack of exhaustion too. His claims against Straughn, Outlaw, Matthews-Gardner, Lyons, Kelly, Hall, and Crocket stemming from grievance MX-13-530 remain.

So Ordered.

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

29 July 2016