

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

JEREMY KENNEDY,  
ADC #093061

PETITIONER

v.

No. 5:15-cv-220-DPM

WENDY KELLEY, Director,  
Arkansas Department of Correction

RESPONDENT

ORDER

On *de novo* review, the Court adopts the recommendation, *No* 12, as modified and overrules Kennedy's objections, *No* 13. FED. R. CIV. P. 72(b)(3).

First, the Court notes that Kennedy's petition may now be moot because he's attained the relief he initially sought—a transfer eligibility date of 28 July 2016. *Compare No* 2 at 9, with *No* 13 at 3. But the record isn't clear on whether that date might have been earlier but for the disciplinary conviction. The Court will therefore consider the recommendation's merits.

Second, Magistrate Judge Ray is right; Kennedy's disciplinary conviction didn't violate due process. Kennedy says the correctional officer and disciplinary hearing officer misinterpreted his statements in the CO's report. But it's not this Court's place to second-guess matters of interpretation. Because the report can be read in a way that shows "some evidence" of the

violations, Kennedy's disciplinary conviction didn't violate due process. His petition therefore fails.

Third, because Kennedy's petition fails on the merits, the Court declines to consider whether Kennedy's claims are cognizable in *habeas*. Compare *No 12 at 4-5*, with *Chapman v. Norris*, E.D. Ark. No. 5:05-cv-132-SWW-HDY, 2005 WL 1922582 at \*2.

\* \* \*

Recommendation, *No 12*, adopted as modified. Objections, *No 13*, overruled. Motions for preliminary injunctive relief and declaratory relief, *No 4 & 9*, denied. Kennedy's petition, *No 2*, will be dismissed with prejudice. No certificate of appealability will issue. 28 U.S.C. § 2253(c)(1)-(2).

So Ordered.

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

1 February 2016