

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

TOMMY MOSLEY
ADC #85548

PLAINTIFF

v.

No. 5:15-cv-337-DPM

CORRECTIONAL CARE SOLUTIONS

DEFENDANT

ORDER

1. The Court construes Mosley's motion for new trial as a motion to reconsider its February 22nd Order, *No. 52*. The motion, *No. 60*, is denied. Mosley didn't properly exhaust as to Defendants Kelley and Burl before filing this lawsuit.

2. On *de novo* review, the Court adopts the pending recommendation as supplemented, *No. 63*, and overrules Mosley's objections, *No. 64*. FED. R. CIV. P. 72(b)(3). Mosley says CCS prevented him from exhausting his grievance before filing suit. But his complaint and the grievance at issue are both dated 19 October 2015, indicating he simply didn't wait to exhaust before filing this lawsuit. *No. 2 at 6; No. 14-4 at 1-3*. CCS's motion for summary judgment, *No. 36*, is therefore granted; and Mosley's claims against it will be dismissed without prejudice for failure to exhaust.

3. Mosley's motion for summary judgment or to certify a class, No 34,
is denied as moot.

So Ordered.

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

24 March 2016