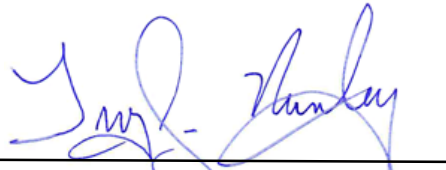


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed September 23, 2013 are adopted in full;
2. Defendants' motion to dismiss for failure to exhaust administrative remedies (ECF No. 53) is denied;
3. Defendants' motion for summary judgment (ECF No. 53) is denied;
4. Plaintiff's cross-motion for summary judgment (ECF No. 62) is granted in part, in the form of an order pursuant to Fed. R. Civ. P. 56(g) that the objective component of his Eighth Amendment claim (the seriousness of the deprivation) is not genuinely in dispute and shall be treated as established in plaintiff's favor;
5. Plaintiff's cross-motion for summary judgment (ECF No. 62) is denied in all other respects; and
6. This matter shall proceed to trial against defendants Wright, Kraft, Davey and Statti on plaintiff's Eighth Amendment claims.

Dated: March 6, 2014



Troy L. Nunley
United States District Judge

/fost0929.806