

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JIMMY EARL DAVIS,

Plaintiff,

v.

CASE NO. 4:06-cv-00186-MP-AK

FLORIDA DEPARTMENT OF CORRECTIONS,
et al.,

Defendants.

_____ /

ORDER

This matter is before the Court on Doc. 156, Report and Recommendation of the Magistrate Judge, recommending that summary judgment be entered in this case against plaintiff. The plaintiff moved, Doc. 158, for an extension of time to file objections. That motion is granted, and the Court has reviewed the objections at Doc. 159, and has conducted a de novo review of the case.

The plaintiff alleges that the defendants violated his constitutional right to practice his religion freely by confiscating 9 stones which he claims to use in his religion of wiccanism. Also, he alleges that he was subject to an assault by some of the defendants and that others failed to protect him. The Court agrees with the Magistrate Judge that, despite being given the opportunity to do so, plaintiff has failed to provide any evidence that the use of the stones was a central tenet of his religion. Thus, Plaintiff has not met his burden of putting at issue whether removing the stones because they constituted a safety concern unconstitutionally burdened the exercise of his religion. Additionally, Plaintiff has not provided any admissible evidence supporting his allegations of an assault. Indeed, the only record evidence in the case supports

the conclusion that no such assault took place.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The motion for extension of time to file objections, Doc. 158, is granted nunc pro tunc, and the Court has considered the objections at Doc. 159.
2. The Report and Recommendation of the Magistrate Judge is adopted and incorporated herein.
3. Summary judgment is granted in favor of the defendants, and the Clerk is directed to close the file.
4. The clerk of court is directed to note on the docket that this cause was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

DONE AND ORDERED this 17th day of September, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge