Davis v. Kimberly et al Doc. 32

> IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

EDWARD DAVIS,

Plaintiff,

VS.

Case No. 14-cv-192-SMY

NURSE KIMBERLY and DR. V. SHAH,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation ("R & R") (Doc. 31) of Magistrate Judge Philip M. Frazier recommending this Court dismiss this case for failure to comply with 28 U.S.C. § 1915(b)(1) by failing to pay his initial partial filing fee in a timely manner.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review de novo the portions of the report to which objections are made. The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. Id. "If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error." Johnson v. Zema Sys. Corp., 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the R & R. The Court has reviewed the entire file and finds that the R & R is not clearly erroneous. Accordingly, the Court ADOPTS the R & R (Doc. 31) and **DISMISSES** this case for failure to comply with 28 U.S.C. § 1915(b)(1) by failing to timely pay the initial partial filing fee. The Court **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: September 29, 2014

s/ Staci M. Yandle STACI M. YANDLE DISTRICT JUDGE