

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

JAMIL RAYFORD,)
)
 Plaintiff,)
)
 vs.)
)
 TERRY CHILDERS,)
 MICHAEL DEAN,)
 DEREK HUNDLEY,)
 CHRIS CALES,)
 MATT WINKA,)
 DARRELL SELBY,)
 CHRIS BRANT,)
 ERIC ADAMSON)
 ROBERT KIDWELL)
 ALAN DALLAS)
 DEREK JOHNSON,)
 and COLLIN RAY,)
 Defendants.)

Case No. 14-cv-1290-MJR-SCW

ORDER ADOPTING REPORT & RECOMMENDATION

REAGAN, Chief Judge:

While incarcerated at Pontiac Correctional Center, Jamil Rayford (Plaintiff) filed suit in this Court under 42 U.S.C. 1983, alleging deprivation of his federally-secured constitutional rights based on a series of events occurring while he was confined at Lawrence Correctional Center (within this Judicial District). On threshold review of Plaintiff’s complaint under 28 U.S.C. 1915A, the undersigned divided the claims into seven counts, which the Court found to state colorable claims. The Court dismissed one Defendant (the Illinois Department of Corrections) but ordered service and directed the case to proceed against 12 correctional officers/defendants.

More specifically, Plaintiff alleges that Defendant Childers used excessive force against him on September 3, 2014 (Count 1), that Defendants Dean, Hundley, Cales, Kidwell, Brant, Winka, Selby, and Adamson used excessive force against him on September 17, 2014 (Count 2) and were deliberately indifferent to his medical needs after the assault (Count 3), that eight Defendants retaliated against him by, *inter alia*, withholding meals and intercepting his mail (Count 4), that Defendant Johnson retaliated against Plaintiff by withholding meals (Count 5), that Defendants Dallas and Ray retaliated against Plaintiff by failing to accept and process grievances (Count 6), and that the Defendants who used excessive force against him on September 17, 2014 denied him equal protection (Count 7).

On August 10, 2015, the 12 Defendants filed a motion for summary judgment and supporting memorandum, arguing that Plaintiff failed to exhaust his administrative remedies before filing this lawsuit (Docs. 64-65). Plaintiff opposed the motion with a response asserting, *inter alia*, that he submitted grievances to Defendants Winka, Adamson, and Selby, but they destroyed the grievances. Plaintiff also maintained that he specifically turned in grievances to Defendant Ray, but Ray told Plaintiff he could not process the grievances. Due to a dispute of fact relating to the issue of exhaustion, Magistrate Judge Stephen C. Williams conducted an evidentiary hearing pursuant to *Pavey v. Conley*, 544 F.3d 739, 740-41 (7th Cir. 2008). Plaintiff testified at the hearing, and exhibits were received in evidence by the Court.

On January 26, 2016, Judge Williams submitted a Report and Recommendation (Doc. 77), recommending that the undersigned District Judge deny Defendants' motion.

Judge Williams set a deadline by which objections to the Report and Recommendation must be filed. That deadline (February 12, 2016) elapsed, and (as of February 16, 2016) no objection has been filed. Accordingly, pursuant to 28 U.S.C. 636(b), the undersigned Judge need not conduct de novo review of the Report and Recommendation. **28 U.S.C. 636(b)(1)(C)** (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). *See also Thomas v. Arn*, 474 U.S. 140 (1985); *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 741 (7th Cir. 1999); *Video Views Inc., v. Studio 21, Ltd.*, 797 F.2d 538 (7th Cir. 1986).

Accordingly, the Court **ADOPTS** Judge Williams’ Report and Recommendation (Doc. 77), and **DENIES** Defendants’ motion for summary judgment based on exhaustion (Doc. 64).

IT IS SO ORDERED.

DATED February 16, 2016.

s/ Michael J. Reagan
Michael J. Reagan
United States District Judge