

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

STANTON E. SILLAS,

Plaintiff,

v.

JOE LORERA,¹ MARK BURTON,
and ROBERT MUELLER,

Defendants.

Case No. 3:18-CV-1021-NJR-GCS

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Gilbert C. Sison (Doc. 30), which recommends granting the motion for summary judgment on the issue of exhaustion of administrative remedies filed by Defendants Mark Burton and Robert Mueller (Doc. 17).

Plaintiff Stanton Sillas filed this lawsuit on April 26, 2018, pursuant to 42 U.S.C. § 1983, alleging his constitutional rights were violated while he was incarcerated at Centralia Correctional Center (Doc. 1). Specifically, Sillas claims Defendants imposed a rule on him, not imposed on other inmates, that he must consume food items purchased from the commissary within two months of purchase (*Id.*). After threshold review of his complaint pursuant to 28 U.S.C. § 1915A, Sillas was permitted to proceed on one count alleging Defendants violated his right to equal protection by implementing a rule, only

¹ The Clerk of Court is **DIRECTED** to correct Defendant C/O Lorea's name to Joe Lorera on the docket.

applying to him, that deprives him of his property in violation of the Fourteenth Amendment (Doc. 8).

On November 14, 2018, Defendants Burton and Mueller filed a motion for summary judgment on the issue of exhaustion of administrative remedies asserting Sillas failed to exhaust his administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. §1997e, *et seq.*, prior to filing this lawsuit (Doc. 18). Sillas filed a response in opposition on December 28, 2018, and testified at an evidentiary hearing held by Judge Sison pursuant to *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), on May 9, 2019 (Docs. 21, 28).

In his Report and Recommendation, Judge Sison recommends that the undersigned grant Defendants' motion for summary judgment because, while there is no dispute that Sillas filed a grievance on May 1, 2017, the grievance was insufficient to exhaust his claims against Defendants Burton and Mueller. Instead, the grievance only references Defendant Lorera and an April 2017 search of Sillas's cell. Because the grievance does not identify, describe, or otherwise complain about Burton or Mueller such that the prison was put on notice of Sillas's complaints about them, Sillas failed to exhaust his administrative remedies as to these Defendants. Objections to the Report and Recommendation were due June 6, 2019. 28 U.S.C. §636(b); SDIL-LR 73.1(b). No objections were filed.

Because no party has filed an objection, the undersigned need not undertake *de novo* review. 28 U.S.C. § 636(b)(1)(C); *see also Thomas v. Arn*, 474 U.S. 140 (1985); *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 741 (7th Cir. 1999). Instead, the Court should review the

Report and Recommendation for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). The Court may then “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

While *de novo* review is not required here, the Court has reviewed Judge Sison’s Report and Recommendation for clear error. Following this review, the Court agrees with his findings, analysis, and conclusions. Accordingly, the Court **ADOPTS** the Report and Recommendation (Doc. 30) and **GRANTS** the Motion for Summary Judgment on the Issue of Exhaustion of Administrative Remedies filed by Defendants Mark Burton and Robert Mueller (Doc. 18). This case shall now proceed solely on Sillas’s claim against Defendant Joe Lorera.

IT IS SO ORDERED.

DATED: June 18, 2019

A handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style and is positioned above a horizontal line.

NANCY J. ROSENSTENGEL
U.S. Chief District Judge