

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DARNELL L. JOHNSON,)	
)	
Petitioner,)	
)	
vs.)	No. 1:17-cv-02536-TWP-TAB
)	
WENDY KNIGHT,)	
)	
Respondent.)	

**Entry Granting Respondent’s Motion to Dismiss
and Directing Entry of Final Judgment**

In this habeas action, Petitioner Darnell Johnson (“Johnson”) challenges a prison disciplinary conviction, case No. CIC 17-04-0200. Johnson was found guilty on April 27, 2017, and sanctions of a written reprimand, the loss of 60 days of earned credit time, and a 30 day loss of phone and commissary privileges were imposed.

The Respondent seeks the dismissal of this action on the grounds that Johnson failed to exhaust his administrative appeals process. In Indiana, only the issues raised in a timely appeal to the Facility Head and then to the Indiana Department of Correction Appeals Review Officer or Final Reviewing Authority may be raised in a subsequent petition for writ of habeas corpus. *See* 28 U.S.C. § 2254(b)(1)(A); *Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); *Moffat v. Broyles*, 288 F.3d 978, 981 (7th Cir. 2002). The Respondent argues that Johnson failed to timely complete the administrative appeals process at the Final Review level, and because the time to complete the administrative appeals process has passed, no relief can be given under federal habeas corpus review.

Procedural default caused by failure to exhaust administrative review can be overcome if the petitioner shows cause and prejudice or shows that failure to consider the claims will result in a fundamental miscarriage of justice. *Coleman v. Thompson*, 501 U.S. 722, 750 (1991); *Moffat*, 288 F.3d at 982. Johnson has not responded to the motion to dismiss nor has he otherwise shown adequate cause or a fundamental miscarriage of justice.

Because the undisputed record reflects that Johnson failed to timely exhaust his available administrative remedies before filing this action, the Respondent's unopposed motion to dismiss, dkt. [7], must be **granted**.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 11/29/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Electronically registered counsel

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