

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALAN FUQUA,

Plaintiff,

v.

Case No. 08-12956

Judge Denise Page Hood

Magistrate Judge Steven D. Pepe

DENNIS STRAUB, *et al.*

Defendants.

ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Steven D. Pepe's Report and Recommendation [**Docket No. 45, filed June 30, 2009**]. Neither party has filed an objection and the time to do has expired. For the reasons set forth below, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Pepe's Report and Recommendation.

Magistrate Judge Pepe properly concluded that all but one of the Plaintiff's claims were not properly exhausted, and therefore subject to dismissal. *Woodford v. Ngo*, 548 U.S. 81, 95, 126 S. Ct. 2378, 165 L. Ed. 2d 368 (2006). The Court also agrees that the remaining due process claim was properly dismissed because change in a prisoner's security classification, with nothing more, is not the type of atypical and significant deprivation in which an inmate might have a liberty interest. *See Rimmer-Bey v. Brown*, 62 F.3d 789, 790-91 (6th Cir. 1995); *Mackey v. Dyke*, 111 F.3d 460, 462-63 (6th Cir. 1997); *Harbin-Bey v. Rutter*, 420 F.3d 571, 576 (6th Cir. 2005). The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Steven D. Pepe [**Docket No. 45, filed June 30, 2009**] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: August 19, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record and Alan Fuqua, Reg. No. 191993, Saginaw Correctional Facility, 9625 Pierce Rd., Freeland, MI 48623 on August 19, 2009, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager