

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ORLANDO MITCHELL,

Plaintiff,

v.

DANIEL BARSTOLE, et al.,

Defendants.

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Case No. 16-10247

Honorable Nancy G. Edmunds

**ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION [22]; GRANTING DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT [17]; DENYING PLAINTIFF'S MOTION TO SUBPOENA VIDEO  
SURVEILLANCE [21]; AND DISMISSING THE MATTER WITHOUT PREJUDICE**

This matter comes before the Court on the Magistrate Judge's Report and Recommendation.<sup>1</sup> (Dkt. 22.) Defendants filed a motion for summary judgment based on Plaintiff's failure to exhaust administrative remedies, and Plaintiff filed a motion to subpoena video evidence that he claims contains evidence to support his claims. The Magistrate Judge recommends granting Defendants' motion, denying Plaintiff's motion as moot, and dismissing the matter without prejudice. Neither party has filed objections. Being fully advised in the premises and having reviewed the record and the pleadings, including the Report and Recommendation, in accordance with 28 U.S.C. § 636(b)(1), the Court hereby ACCEPTS AND ADOPTS the Magistrate Judge's Report and Recommendation. It is further ordered that Defendants' motion for summary judgment is GRANTED, Plaintiff's

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<sup>1</sup>Although the first named Defendant's actual name is Daniel Bierstetel, the Court uses "Barstole" in the caption because that name appears in the Complaint and on the docket.

motion to subpoena video evidence is DENIED, and the matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

S/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: December 1, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 1, 2016, by electronic and/or ordinary mail.

S/Carol J. Bethel  
Case Manager