

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEXTER POOLE,

Petitioner,

Case No. 1:10-CV-378

v.

Hon. Robert J. Jonker

MICHIGAN REFORMATORY, et al.,

Respondent.

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ORDER APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on October 18, 2011. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

The Report and Recommendation recommends granting summary judgment to the only remaining defendant in this case, Defendant James Armstrong. Mr. Poole did not respond to Mr. Armstrong’s motion for summary judgment (docket # 29) before the Report and Recommendation issued, despite ample time in which to do so or to request an extension of the response period. On October 27, 2011, four months after the motion for summary judgment was filed, and nine days after the Report and Recommendation issued, Mr. Poole did file an untimely response to the motion (docket ## 32, 34). Mr. Poole’s response came too late. But even if the Court were to consider the response in its analysis, it would still adopt the Magistrate Judge’s Report and Recommendation, because the response does not change the fundamental point that there is no evidence in this record that Mr. Armstrong had any role in the alleged wrongdoing beyond denying an administrative grievance. It is well established that a prison official whose only role involved the denial of an administrative grievance cannot be liable under section 1983. *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999). The Magistrate Judge properly recommended summary judgment in favor of Mr. Armstrong.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed October 18, 2011, is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that Defendant Armstrong's Motion for Summary Judgment (docket # 29) is **GRANTED** and that this action is **TERMINATED**.

The Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3).
See McGore v. Wrigglesworth, 114 F.3d 601, 611 (6th Cir. 1997).

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

DATED: January 17, 2012.