

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT D. SANGO,

Plaintiff,

v.

UNKNOWN KENNSEY, et al.,

Defendants.

Case No. 1:19-cv-1047

HON. JANET T. NEFF

MEMORANDUM OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants filed a motion for summary judgment, arguing that Plaintiff failed to exhaust his administrative remedies. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court deny Defendants' motion. The matter is presently before the Court on Defendants' objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which the objection has been made. The Court denies the objection and issues this Opinion and Order.

In response to Defendants' motion, Plaintiff argued that the grievance process was unavailable to him due to threats by Defendants (ECF No. 26), threats that he had described in his Complaint (ECF No. 1) and reiterated in a Declaration accompanying his response (ECF No. 27). After delineating the relevant case authorities and summarizing Plaintiff's allegations, the Magistrate Judge determined that "Plaintiff's allegations concern specific occurrences and threats

and are, therefore, distinct from a ‘mere allegation of a generalized fear of retaliation’” (R&R, ECF No. 30 at PageID.212) (citation omitted).

Defendants object to the Magistrate Judge’s exhaustion analysis, arguing that this Court should instead hold that Plaintiff’s allegations “lacked sufficient specificity to render the grievance process unavailable” (Defs.’ Objs., ECF No. 31 at PageID.214-215). Specifically, Defendants emphasize that Plaintiff’s Complaint “does not contain any dates” (*id.* at PageID.215-216).

Defendants’ objection serves to demonstrate their disagreement with the Magistrate Judge’s ultimate conclusion, but their argument fails to demonstrate any factual or legal error that would require rejecting the Report and Recommendation. The Magistrate Judge relied on the relevant authorities and reasonably concluded that Plaintiff’s allegations were sufficiently specific to survive summary judgment. Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. Therefore:

IT IS HEREBY ORDERED that the Objection (ECF No. 31) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 30) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ Motion for Summary Judgment (ECF No. 24) is DENIED for the reasons stated in the Report and Recommendation.

Dated: June 21, 2021

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge