

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

RONALD MARK DRAUGHN, a/k/a
KHALIL MALIK SHABAZZ,

Plaintiff,

File No. 2:08-CV-32

v.

HON. ROBERT HOLMES BELL

PATRICIA CARUSO, et al.,

Defendants.

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**ORDER APPROVING AND ADOPTING
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

On February 2, 2010, United States Magistrate Judge Timothy P. Greeley issued a report and recommendation (“R&R”) recommending that Defendants’ motions for summary judgment be granted and that this case be dismissed in its entirety. (Dkt. No. 94, R&R; Dkt. Nos. 54, 72, Mots. for Summ. J.) Plaintiff Ronald Mark Draughn, a/k/a Khalil Malik Shabazz, filed objections to the report and recommendation on February 11, 2010. (Dkt. No. 95.)

This Court is required to make a de novo determination of those portions of the R&R to which specific objection has been made, and may accept, reject, or modify any or all of the Magistrate Judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Plaintiff objects to the application of the doctrine of claim preclusion because he

contends that the claims, the parties, and the time periods covered by the two actions are not identical. Plaintiff's objections lack merit. Plaintiff's current complaint alleges that for the past thirteen years he has been unfairly continued at Level V on a CFA Hold due to his religion or race. (Compl. ¶¶ 16-36.) Plaintiff's previous action similarly included allegations that MDOC officials denied him a lower level transfer multiple times solely because of his religious affiliation, and that they were motivated by racial and religious animus, in violation of Plaintiff's First Amendment and equal protection rights. (Case No. 2:00-CV-73005, E.D. Mich., Dkt. No. 1, Compl., ¶¶ 121-22, 143-44, 148.) In both actions Plaintiff is in effect challenging an alleged long-standing prison policy or practice of continuing him at Level V on the basis of his race or religion. This claim was unanimously rejected by the jury in Case No. 2:00-CV-73005. The claim is not subject to retrial merely because additional time has elapsed and new individuals occupy the equivalent positions of the MDOC officials who were sued in the prior action. The Court agrees with the Magistrate Judge that Plaintiff's claims are barred by the doctrine of claim preclusion. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's objections to the R&R (Dkt. No. 95) are **OVERRULED**.

IT IS FURTHER ORDERED that the February 2, 2010, R&R (Dkt. No. 94) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants' motions for summary judgment (Dkt. Nos. 54, 72) are **GRANTED**.

IT IS FURTHER CERTIFIED pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App.

P. 24(a)(3) that an appeal of this action would not be in good faith.

Date: March 11, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE