UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN NORTHERN DIVISION

MARCUS D. MAYS, #218101,)	
Plaintiff,)	
)	No. 2:17-cv-167
-V-)	
)	Honorable Paul L. Maloney
UNKNOWN PYNNONEN, et al.,)	
Defendants.)	
)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Marcus May, a prisoner under the control of the Michigan Department of Corrections, alleges various claims against MDOC employees. Defendants filed a motion for partial summary judgment alleging Plaintiff's failure to exhaust administrative grievances. (ECF No. 29.) The magistrate judge issued a report recommending the Court grant the motion. (ECF No. 59.) Plaintiff filed objections. (ECF No. 60.)

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam).

The magistrate judge recommends the following: (1) dismissing Defendants Grueb and Wealton without prejudice, (2) dismissing without prejudice Plaintiff's retaliation claim

against all named defendants except for Defendant Corrigan, and (3) dismissing Plaintiff

food poisoning claim without prejudice.

In his objection, Plaintiff asserts generally that he has attempted to exhaust his

grievances and refers to multiple exhibits attached to his objection. Defendants filed a

response insisting that they have no record that they received any of the attached exhibits.

Plaintiff's objection is overruled. When presented with a motion, the opposing party

has an obligation to answer it. Plaintiff did not submit the documents attached to his

objection as part of his response to the initial motion. Objections are not opportunities to

present evidence that could have and should have been presented as part of the initial motion

or response. The Court also finds telling that none of the exhibits submitted as part of

Plaintiff's objection bear any markings suggesting that they were received by MDOC as part

of the grievance process.

For these reasons, the Report and Recommendation (ECF No. 59) is **ADOPTED** as

the Opinion of this Court. Defendants' motion for partial summary judgment (ECF No. 29)

is GRANTED and (1) Defendants Grueb and Wealton are dismissed without prejudice; (2)

Plaintiff's retaliation claims against all defendants except Defendant Corrigan is dismissed

without prejudice; and (3) Plaintiff's food poisoning claim is dismissed without prejudice.

IT IS SO ORDERED.

Date: February 26, 2019

/s/ Paul L. Maloney

Paul L. Maloney

United States District Judge

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