

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**GREGORY K. ALLEN, JR. (# 164049)**

**PLAINTIFF**

**v.**

**No. 4:20CV106-JMV**

**M.S.P. WARDEN SIMON, ET AL.**

**DEFENDANTS**

**MEMORANDUM OPINION**

This matter comes before the court on the *pro se* prisoner complaint of Gregory K. Allen, Jr., who challenges the conditions of his confinement under 42 U.S.C. § 1983. For the purposes of the Prison Litigation Reform Act, the court notes that the plaintiff was incarcerated when he filed this suit. The plaintiff has brought the instant case under 42 U.S.C. § 1983, which provides a federal cause of action against “[e]very person” who under color of state authority causes the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. The plaintiff alleges that the defendants failed to protect him from attack by another inmate and retaliated against him for seeking assistance after the attack. The plaintiff also alleges that defendant Richard Pennington failed to adequately address his grievance regarding the attack. For the reasons set forth below, defendant Richard Pennington will be dismissed with prejudice from this suit for failure to state a claim upon which relief could be granted against him. The plaintiff’s claims against the other defendants will, however, proceed.

**Participation in the Grievance Process Is Not a Basis for a § 1983 Claim**

In this case, Mr. Allen alleges that defendant Richard Pennington did not properly address his grievance about the attack. However, a § 1983 plaintiff cannot proceed against a prison official based solely on the official’s participation in the prison grievance process. *Dehghani v.*

*Vogelgesang*, 226 Fed.Appx. 404, 406 (5<sup>th</sup> Cir. 2007). As such, defendant Pennington will be dismissed with prejudice from this suit for failure to state a constitutional claim against him.

**Conclusion**

For the reasons set forth above, defendant Pennington will be dismissed with prejudice from this suit because the plaintiff's allegations against him fail to state a claim upon which relief could be granted. The plaintiff's claims for failure to protect him from attack by another inmate and for retaliation for seeking redress for that attack will, however, proceed. A process and scheduling order will issue separately.

**SO ORDERED**, this, the 14th day of December, 2020.

/s/ Jane M. Virden  
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UNITED STATES MAGISTRATE JUDGE