

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

DERICK WEWERKA, Register No. 1036447,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08-4082-CV-C-SOW
	)	
C.O. GRYGLEWSKI, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On January 29, 2009, United States Magistrate Judge William A. Knox recommended that plaintiff’s motions to amend his complaint and to add defendants be denied; that defendant Hovis’ motion to dismiss for failure to exhaust administrative remedies required by 42 U.S.C. § 1997e be granted and plaintiff’s claims against defendant Hovis be dismissed, without prejudice; that defendant Hovis’ alternative motion to dismiss for failure to state a claim be denied; that the partial motion of defendants Lewis, Pridgeon, Gryglewski and Hovis to dismiss plaintiff’s official capacity claims, claims of denial of medical care, and related allegations of failure to transfer plaintiff to another facility based on his mental health condition be granted; and that defendants’ alternative motion for judgment on the pleadings be denied.

The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of January 29, 2009, is adopted. [62] It is further

ORDERED that plaintiff’s motions to amend his complaint and to add defendants are denied. [46, 49] It is further

ORDERED that defendant Hovis' motion to dismiss for failure to exhaust administrative remedies required by 42 U.S.C. § 1997e is granted and plaintiff's claims against defendant Hovis are dismissed, without prejudice. [14] It is further

ORDERED that defendant Hovis' alternative motion to dismiss for failure to state a claim is denied as moot. [14] It is further

ORDERED that the partial motion of defendants Lewis, Pridgeon, Gryglewski and Hovis to dismiss plaintiff's official capacity claims, claims of denial of medical care, and related allegations of failure to transfer plaintiff to another facility based on his mental health condition is granted. [22] It is further

ORDERED that defendants' alternative motion for judgment on the pleadings is denied as moot. [22]

/s/Scott O. Wright  
SCOTT O. WRIGHT  
Senior United States District Judge

Dated: February 23, 2009