

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

C.J. STEWART, Register No. 182472,)	
)	
Plaintiff,)	
)	
v.)	No. 08-4211-CV-C-NKL
)	
DR. THOMAS BAKER, et al.,)	
)	
Defendants.)	

ORDER

On April 7, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on April 20 and 27, 2009. Plaintiff's objections do not support that he timely filed his grievance. The relevant date is the date the grievance is filed, not the date the inmate signed grievance.

The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

In light of the above, defendants' motion for summary judgment and plaintiff's motion for an extension of time are denied as moot.

IT IS, THEREFORE, ORDERED that defendants' motion for summary judgment and plaintiff's motion for an extension of time are moot. [20, 23] It is further

ORDERED that the Report and Recommendation of April 7, 2009, is adopted. [21] It is further

ORDERED that defendants' motion of October 29, 2008, is granted and plaintiff's claims are dismissed, pursuant to 42 U.S.C. § 1997e(a), for failure to exhaust administrative remedies.

/s/ _____

NANETTE K. LAUGHREY
United States District Judge

Dated: May 1, 2009
Jefferson City, Missouri