

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

KEVIN JEROME KERR,)	
)	
)	Petitioner,
v.)	Civil Action
)	No. 07-3406-CV-S-DGK-H
BILL HEDRICK, et al.,)	
)	
)	Respondents.

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition herein for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that the petition for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the Magistrate in which he continues to challenge various conditions of his confinement.

Having fully reviewed the record de novo, the Court agrees with the Magistrate that the petitioner be denied leave to proceed in forma pauperis and that the petition should be dismissed on the grounds that petitioner has failed to establish a constitutional violation and because he has otherwise failed to exhaust his administrative remedies.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. It

is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, CONSIDERED and OVERRULED. It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Greg Kays

GREG KAYS, JUDGE

UNITED STATES DISTRICT COURT

Date: October 6, 2008