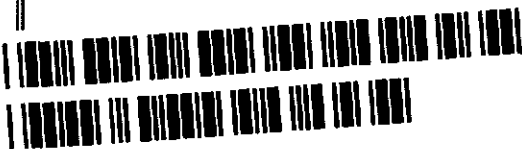


1



08-CV-01199-ORD

FILED ENTERED  
LODGED RECEIVED

MAY 19 2009

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

6

7

8

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9

STACEY RAY STACH,

Case No. 08-cv-1199-JLR-JPD

10

Plaintiff,

11

v.

ORDER RE DEFENDANTS' MOTION  
TO DISMISS

12

BILL ELFO et al.,

13

14

Defendants.

15

16

The Court, having reviewed the Report and Recommendation of United States

17

Magistrate Judge James P. Donohue, the governing law and balance of the record, does hereby

18

find and ORDER:

19

(1) The Court adopts the Report and Recommendation.

20

(2) Defendants' motion to dismiss for failure to exhaust administrative remedies

21

(Dkt. No. 18) is GRANTED IN PART and DENIED IN PART, and Defendants

22

are directed to file an answer. Plaintiff shall be allowed to proceed on his

23

claims concerning the following: the shower drain being plugged and the

24

resultant sewage discharge; the sinks being inoperable in his containment area;

25

poor or no ventilation in his containment area; only one hour of recreation every

26

ten days; only one change of clothing every seven to ten days; no law library

ORDER RE DEFENDANTS' MOTION TO  
DISMISS  
PAGE - 1

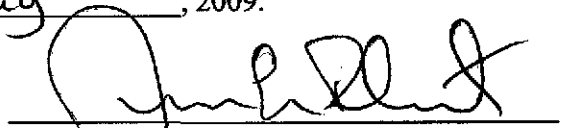
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

access; and Defendant Pearson's alleged refusal of medication and medical treatment. All remaining claims in Plaintiff's amended complaint are dismissed without prejudice for failure to exhaust administrative remedies.

(3) Because Plaintiff has provided notice that he is unavailable through April 24, 2009 due to medical treatment, Dkt. No. 29, the 21-day deadline for the parties to file objections to the Report and Recommendation shall begin to run on April 25, 2009.

(4) The Clerk is directed to send copies of this Order to the parties and to Judge Donohue.

DATED this 19<sup>th</sup> day of May, 2009.

  
\_\_\_\_\_  
JAMES L. ROBART  
United States District Judge