

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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|-------------------------------------|---|------------------------|
| STANLEY HENRY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 10-cv-058-MJR |
| |) | |
| JOHN COX, LT. HOWARD, SGT. SUIT, |) | |
| LT. SOLIDAY, LT. STEVENS, C/O KERN, |) | |
| C/O WOOLRIDGE, C/O TAYLOR, |) | |
| C/O BUCHMYER and NURSE MARYANN, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

REAGAN, District Judge:

In January 2010, Stanley Henry filed suit pursuant to 42 U.S.C. § 1983, alleging deprivations of his constitutional rights by personnel at Vienna Correctional Center in Vienna, Illinois (located within the Southern District of Illinois). Henry sought leave to proceed in forma pauperis.

On threshold review in July 2010, the undersigned Judge granted Henry pauper status, dismissed Defendant Director Randle, and referred what remained of the case (an Eighth Amendment claim against Defendants Suit, Howard, Soliday, Stevens, Kern, Woolridge, Taylor , Buchmyer and Cox; and a First Amendment claim against Defendants Suit, Howard, Soliday, Stevens, Kern, Woolridge, Taylor, Buchmyer, Nurse Maryann, Harrison and Cox¹) to a United States Magistrate Judge for pretrial proceedings.

¹Defendant John Cox was inadvertently omitted from the Court’s threshold order, but he has entered his appearance in this case and has joined in the motion for summary judgment.

In November 2010, counsel was appointed to represent Plaintiff Henry. In February 2011, the Defendants timely moved for summary judgment (Doc. 38), and submitted a memorandum in support of their motion (Doc. 39). Defendants argue that Henry failed to exhaust administrative remedies before filing suit, as required by 42 U.S.C. § 1997e(a). Plaintiff Henry filed a memorandum in opposition to Defendants' motion (Doc. 45), to which Defendants filed a reply (Doc. 48). Magistrate Judge Stephen C. Williams conducted an evidentiary hearing on May 31, 2011, and took the motion for summary judgment under advisement. On June 20, 2011, Judge Williams submitted a detailed Report (Doc. 39), including proposed findings of fact, and Judge Williams recommended that the undersigned Judge deny Defendants' motion and permit the case to proceed. More specifically, Judge Williams found both Plaintiff Henry's and Defendants' versions of events credible and not inconsistent with each other; and Judge Williams concluded that Plaintiff Henry had exhausted all *available* administrative remedies before filing suit.

Both the Report (Doc. 58, p. 12) and a separate Notice attached thereto (Doc. 58-1) advised the parties of their right to challenge Judge Williams' findings and conclusions by filing "objections" within 14 days. To date, no objections have been filed by the parties, no extension of the deadline was sought, and the period in which such objections may be filed has expired.

Therefore, pursuant to 28 U.S.C. § 636(b), this Court need not conduct *de novo* review. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1985); *Video Views Inc., v. Studio 21, Ltd.*, 797 F.2d 538 (7th Cir. 1986).

Accordingly, the undersigned District Judge **ADOPTS in its entirety** Judge Williams' Report and Recommendation (Doc. 58), and **DENIES** Defendants' motion for summary judgment (Doc. 38). Counts 1 and 2 shall proceed.

IT IS SO ORDERED.

DATE: July 11, 2011

s/ *Michael J. Reagan*
United States District Judge
Southern District of Illinois