

**UNITED STATES COURT OF APPEALS**

**OCT 4 2004**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

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LA STARZA M. HEARD,

Plaintiff - Appellant,

v.

JODY BRADLEY, in individual and  
official capacity; C. JUHL, in individual  
and official capacity; INDIA D. SCHISM,  
in individual and official capacity,

Defendants - Appellees.

No. 03-6329  
(D.C. No. 03-CV-1007-L)  
(W.D. Okla.)

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LA STARZA M. HEARD,

Plaintiff - Appellant,

v.

JODY BRADLEY, Warden, NCF; PENNY THOMAS, Asst. Warden, NCF; GLENN HARDIN, LIB Operations, NCF; (NFN) SMITH, Mail Room Supv.; (NFN) BEARD, Mail Room Asst., NCF; D.K. RARDEN, LIB Supv., NCF; C. PERRY, LIB Supv., NCF; TANYA BRUNER, RN; STEPHEN J. VOLZ, Parole Agent #33016 DOC; PEGGY KENDRIGAN, Supv. Pro & Parole #330 DOC; M. JENSON, RN, DOC Waupun; GARY MCGAOTHERY, Warden, WCI; LIEUTENANT DITTMAN, WCI, DOC; JOHN WELCH, FLCI, Kit.Supv.; MATTHEW J. FRANK, Sect. DOC; C.

No. 04-6192  
(D.C. No. 03-CV-1577-L)  
(W.D. Okla.)

JUHL, NFCF, REC Supv.; I. D. SCHISM,  
Grievance Coordinator & Commissary  
Coordinator,

Defendants - Appellees.

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**ORDER AND JUDGMENT\***

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Before **KELLY, HENRY, and TYMKOVICH**, Circuit Judges.\*\*

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Plaintiff La Starza M. Heard, an inmate appearing pro se, appeals from district court judgments dismissing his claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 42 U.S.C. § 1997e(c). Plaintiff is an inmate in the custody of the Wisconsin Department of Corrections who was housed in various Oklahoma private prisons. His chief complaints arise from his incarceration at the North Fork Correctional Facility in Oklahoma, although he also complains of events occurring in Wisconsin; he has since been transferred back to Wisconsin. In No. 03-6329, Mr. Heard complains that: (1) a recreational supervisor and two inmates conspired to have him fired from his job, and (2) a prison official deprived

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

\*\* After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

him of his personal property, specifically a business plan he developed. R. Doc. 2. The case was referred to a magistrate judge who recommended the complaint be dismissed for failure to state a claim and that the dismissal be counted as a prior occasion pursuant to 28 U.S.C. § 1915(g). R. Doc. 7. After Mr. Heard objected to the magistrate's report, the district court adopted the magistrate judge's report and recommendation in its entirety and entered judgment. R. Doc. 13 & 14.

In No. 04-6192, Mr. Heard alleges violations of his constitutional rights and various violations of federal and state law. R. Doc. 17. After requiring Mr. Heard to file an amended complaint, the magistrate judge determined that Mr. Heard alleged that Defendants: (1) filed false misconduct charges against him, (2) unlawfully transferred and detained him, (3) were deliberately indifferent to his serious medical and dental needs, (4) denied him access to the courts, (5) conspired against him to violate various statutory (including RICO) and constitutional rights, and (6) violated various rights pursuant to Oklahoma and Wisconsin law. The magistrate judge recommended that claim (3), an Eighth Amendment claim, be dismissed for failure to exhaust administrative remedies. R. Doc. 20. The magistrate judge further recommended that the remaining federal claims be dismissed for failure to state a claim, and that supplemental jurisdiction not be exercised over the state law claims. Finally, the magistrate judge recommended that the dismissal of the federal claims be counted as a prior occasion pursuant to 28 U.S.C. § 1915(g). After Mr. Heard objected to the magistrate's report, the district court

adopted the magistrate judge's report and recommendation in its entirety and entered judgment. R. Doc. 25 & 26.

We now consolidate these appeals for disposition. Fed. R. App. P. 3(b)(2). On appeal, Mr. Heard essentially restates his many claims. Our review is de novo. Perkins v. Kan. Dep't of Corr., 165 F.3d 803, 806 (10th Cir. 1999). We have carefully reviewed Mr. Perkins' submissions and the records, and affirm the judgments for substantially the reasons set forth in the magistrate judge's dispositions.

We grant Mr. Heard's motions to proceed without prepayment of the appellate filing fees, and he is reminded that he remains obligated to make partial payments until the entire filing and appellate fees have been paid. All other pending motions are denied.

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge