

March 26, 2009

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

JERRY L. THOMAS, a/k/a Madyun
Abdulhaseeb,

Plaintiff-Appellant,

v.

DAVID PARKER, Warden; RODNEY
REDMAN, Deputy Warden; BECKY
GUFFY, Warden's Assistant; BETSY
HORMEL, AAPO; JIM REED,
Captain; SHANNON REED, Mailroom
Clerk; AMY MADISON, Notary
Public; DOUG BYRD, Programs
Director; JAY DRAWBRIDGE,
Chaplain; JUSTIN JONES, Director;
RICHARD KIRBY, General Counsel;
RON ANDERSON, Deputy General
Counsel; DEBBIE MORTON,
Designee of Director; LEO BROWN,
Volunteer Coordinator, Chaplain;
JO GWINN, Unit Manager;
BRANDY PAGE, Case Manager,

Defendants-Appellees,

and

KATRINA FRECH, CHSA; NURSE
CHESTER, R.N.; DENNIS COTNER,
Medical Services Administrator;
BRADO, Business Manager,

Defendants.

No. 08-6185
(D.C. No. 5:07-CV-00599-W)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **McCONNELL**, **McKAY**, and **GORSUCH**, Circuit Judges.

Oklahoma prisoner Jerry L. Thomas, also known as Madyun Abdulhaseeb, appeals the district court's judgment on all claims in favor of defendants. Appellant proceeds pro se, and therefore we construe his pleadings liberally. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Our review of all aspects of the decision is de novo. *See Fields v. Okla. State Penitentiary*, 511 F.3d 1109, 1112 (10th Cir. 2007) ("We review de novo the court's finding of failure to exhaust administrative remedies."); *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007) ("We review de novo the district court's decision to dismiss an IFP complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim."); *McBride v. Deer*, 240 F.3d 1287, 1289 (10th Cir. 2001) ("We review a district court's grant of summary judgment de novo.").

The magistrate judge thoroughly examined the issues of lack of exhaustion and failure to state a claim in her Report and Recommendation dated May 27,

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

2008, which the district court adopted. We agree that Claims I, III, IV, V, VII, VIII, IX, X, XI, XIII, XIV, XV, XVI, XVII, XIX, and XX were not administratively exhausted; Claims XII and XVIII failed to state a claim; and appellant declined to pursue Claims II and VI. Rather than needlessly adding to the district court's analyses, we affirm for substantially the reasons stated in the district court's decision dated July 25, 2008, and the Report and Recommendation.

Appellant's motion to proceed without prepayment of fees and costs is GRANTED. The judgment of the district court is AFFIRMED.

Entered for the Court

Michael W. McConnell
Circuit Judge