

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MICHIGAN

Travis Delshawn Shaw #775483 v. Heidi Washington et al.

Shaw v. Washington · No. 1:25-cv-276 · Decided January 21, 2026

SUMMARY

The Report and Recommendation addresses Plaintiff Travis Delshawn Shaw’s motion for summary judgment in a 42 U.S.C. § 1983 action involving Eighth Amendment claims against Michigan Department of Corrections employees. The magistrate judge recommends denying the motion because Plaintiff did not meet the heightened summary judgment burden applicable to a party bearing the burden of proof and submitted no competent evidentiary support. The recommendation was issued after Defendant Scott Miller was dismissed from the action for Plaintiff’s failure to exhaust administrative remedies.

CASE DETAILS

COURT	United States District Court for the Western District of Michigan
WRITING FOR THE COURT	Sally J. Berens
JURISDICTION	United States District Court for the Western District of Michigan
DECIDED	January 21, 2026
DOCKET	1:25-cv-276
DISPOSITION	other
PROCEDURAL POSTURE	Report and Recommendation on Plaintiff's motion for summary judgment. The magistrate judge recommended that the district court deny the motion.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. A party moving for summary judgment on an issue on which it bears the burden of proof faces a substantially higher hurdle and must present evidence so powerful that no reasonable jury could disbelieve it.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

summary judgment

prisoners rights

section 1983

civil rights

civil procedure

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether Plaintiff's filing should be construed as a motion for summary judgment on the merits of his remaining Eighth Amendment claims.
2. Whether Plaintiff, as the party seeking summary judgment on claims for which he bore the burden of proof, presented evidence sufficient to establish that no reasonable jury could find against him.

HOLDINGS

1. The magistrate judge construed Plaintiff's filing as a motion for summary judgment on the merits of his claims against Fears and Ottenwess rather than as a response to Miller's prior motion.
2. Plaintiff did not satisfy the demanding burden for affirmative summary judgment because he failed to identify evidence showing that no reasonable jury could find against him.

KEY QUOTATIONS

“Summary judgment is appropriate if there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law.”

“The Sixth Circuit has emphasized that the party with the burden of proof “must show that the record contains evidence satisfying the burden of persuasion and that the evidence is so powerful that no reasonable jury would be free to disbelieve it.””

“In sum, Plaintiff fails to point to evidence in the record that “is so powerful that no reasonable jury would be free to disbelieve it.””

FACTUAL BACKGROUND

Plaintiff is incarcerated at the Carson City Correctional Facility and alleged that MDOC employees violated the Eighth Amendment during events occurring there in June 2024. His remaining claims were against Fears and Ottenwess after Miller was dismissed on exhaustion grounds. In support of his motion for summary judgment, Plaintiff submitted a purported affidavit that was apparently not properly notarized, did not comply with 28 U.S.C. § 1746, and contained argument and legal conclusions rather than factual evidence.

PROCEDURAL HISTORY

Plaintiff, a Michigan Department of Corrections prisoner, filed a 42 U.S.C. § 1983 action against several MDOC employees based on events at Carson City Correctional Facility in June 2024. After initial screening, Plaintiff proceeded on Eighth Amendment claims against Sgt. Bretton Fears, Corrections Officer Samuel Ottenwess, and Prison Counselor Scott Miller. Defendant Miller obtained summary judgment on exhaustion grounds after Plaintiff failed to respond, and the district court adopted that recommendation, removing Miller from the case.

Plaintiff then filed the present motion, which the magistrate judge construed as a motion for summary judgment on the merits of the remaining claims against Fears and Ottenwess and recommended denial.

DISPOSITION

other

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Agristor Fin. Corp. v. Van Sickle, 967 F.2d 233, 236 (6th Cir. 1992)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Arnett v. Myers, 281 F.3d 552, 561 (6th Cir. 2002)
- Calderone v. United States, 799 F.2d 254, 259 (6th Cir. 1986)
- Hunt v. Cromartie, 526 U.S. 541, 553 (1999)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

OPINION

Travis Delshawn Shaw #775483 v. Heidi Washington et al.

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

TRAVIS DELSHAWN SHAW #775483,

Plaintiff, Hon. Paul L. Maloney v. Case No. 1:25-cv-276 HEIDI WASHINGTON et al.,
Defendants. _____/

REPORT AND RECOMMENDATION

This matter is before me on Plaintiff’s motion titled “Plaintiff’s Motion for Summary Judgment in Opposition to Defendant: Answer Filed.” (ECF No. 27.) Defendants have filed a response. (ECF No. 30.) Pursuant to 28 U.S.C. § 636(b)(1)(B), I recommend that the Court deny the motion. Plaintiff, who is currently incarcerated with the Michigan Department of Corrections (MDOC) at the Carson City Correctional Facility (DRF), filed a complaint against several MDOC employees on March 12, 2025, alleging claims pursuant to 42 U.S.C. § 1983 based on events that occurred at DRF in June 2024. Following the Court’s initial review pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c), Plaintiff was allowed to proceed on his Eighth Amendment claims against Defendants Sgt. Bretton Fears, Corrections Officer (CO) Samuel Ottenwess, and Prison Counselor (PC) Scott Miller. (ECF No. at PageID.35–36.) On July 21, 2025, Defendant Miller moved for summary judgment based on Plaintiff’s failure to exhaust his claim against Defendant Miller. (ECF No. 12.) Plaintiff failed to respond to the motion. On September 15, 2025,

I issued a Report and Recommendation recommending that the motion be granted. (ECF No. 17.) The Court adopted the Report and Recommendation on October 16, 2025, after Plaintiff failed to file an objection. (ECF No. 19.) Thus, Defendant Miller is no longer a party to this action. Plaintiff filed his present motion on December 15, 2025. It is not clear whether the filing is intended as a motion for summary judgment on the merits of Plaintiff's remaining claims against Defendants Fears and Ottenwess or whether it is a belated response to Defendant Miller's previous summary judgment motion, as Plaintiff mentions Defendant Miller in both his motion and brief and indicates that he is the "opposition party." (ECF No. 27 at PageID.27; ECF No. 28 at PageID.162.) If it is the latter, it is late. If it is the former, Plaintiff fails to meet his summary judgment burden. Out of an abundance of caution, I will consider Plaintiff's motion as a motion for summary judgment on the merits of his claims against Defendants Fears and Ottenwess. Summary judgment is appropriate if there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). Material facts are facts that are defined by substantive law and are necessary to apply the law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute is genuine if a reasonable jury could return judgment for the non-moving party. *Id.* The court must draw all inferences in a light most favorable to the non-moving party but may grant summary judgment when "the record taken as a whole could not lead a rational trier of fact to find for the non-moving party." *Agristor Fin. Corp. v. Van Sickle*, 967 F.2d 233, 236 (6th Cir. 1992) (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)). While a moving party without the burden of proof need only show that the opponent cannot sustain his burden at trial, a moving party with the burden of proof faces a "substantially higher hurdle." *Arnett v. Myers*, 281 F.3d 552, 561 (6th Cir. 2002). Where the moving party has the burden, "his showing must be sufficient for the court to hold that no reasonable trier of fact could find other than for the moving party." *Calderone v. United States*, 799 F.2d 254, 259 (6th Cir. 1986). The Sixth Circuit has emphasized that the party with the burden of proof "must show that the record contains evidence satisfying the burden of persuasion and that the evidence is so powerful that no reasonable jury would be free to disbelieve it." *Arnett*, 281 F.3d at 561. Accordingly, summary judgment in favor of the party with the burden of persuasion "is inappropriate when the evidence is susceptible of different interpretations or inferences by the trier of fact." *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999). Plaintiff has not met this demanding standard. While Plaintiff submits a "Sworn Affidavit" in support of his motion (ECF No. 29), it appears that the affidavit is not properly notarized, and it does not comply with 28 U.S.C. § 1746. More importantly, the purported affidavit contains no facts. Rather, it sets forth only argument and legal conclusions and citations. Thus, the affidavit cannot support Plaintiff's motion for summary judgment. In sum, Plaintiff fails to point to evidence in the record that "is so powerful that no reasonable jury would be free to disbelieve it." *Arnett*, 281 F.3d at 561. Thus, his motion should be denied.

CONCLUSION

For the foregoing reasons, I recommend that the Court deny Plaintiff's motion for summary judgment. (ECF No. 27.) Dated: January 21, 2026 /s/ Sally J. Berens

SALLY J. BERENS

U.S. Magistrate Judge

NOTICE

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).