

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MICHAEL PHELPS,)
)
Petitioner,)
)
vs.) No. 1:16-cv-02060-TWP-MJD
)
WENDY KNIGHT SUPERINTENDENT,)
)
Respondent.)

Entry Granting Respondent’s Motion to Dismiss

In this habeas action, petitioner Michael Phelps challenges a prison disciplinary conviction. The petitioner was found guilty on August 17, 2015, of violating Code A-111/113 in CIC 15-08-0143 and sanctions, including the deprivation of 180 days of earned credit time, were imposed.

The respondent seeks the dismissal of this action on the grounds that the petitioner failed to exhaust his administrative appeals process. In Indiana, only the issues raised in a timely appeal to the Facility Head and then to the Indiana Department of Correction Appeals Review Officer or Final Reviewing Authority may be raised in a subsequent Petition for Writ of Habeas Corpus. *See* 28 U.S.C. § 2254(b)(1)(A); *Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); *Moffat v. Broyles*, 288 F.3d 978, 981 (7th Cir. 2002). The respondent argues that the petitioner failed to exhaust the administrative appeals process, and because the time to complete such administrative appeals process has passed, no relief can be given under the habeas corpus doctrine. To support this, it provides evidence that neither of the two required appeals were appropriately completed.

The petitioner has not opposed the motion to dismiss. Because the undisputed record reflects that he failed to timely exhaust his available administrative remedies before filing this action, the respondent’s unopposed motion to dismiss [dkt. 6] must be **granted**.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 11/14/2016

A handwritten signature in black ink, reading "Tanya Walton Pratt". The signature is written in a cursive style and is positioned above a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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