

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MUSTAFA-EL K.A. AJALA,
formerly known as DENNIS E. JONES-EL,

Plaintiff,

v.

CRAIG TOM and MATTHEW SCULLION,

Defendants.

ORDER

13-cv-102-bbc

This case is on remand from the Court of Appeals for the Seventh Circuit to determine whether pro se prisoner Mustafa-El K.A. Ajala has exhausted his available administrative remedies, as required by 42 U.S.C. § 1997e(a). Ajala v. Tom, 592 F. App'x 526 (7th Cir. 2015). In particular, the court of appeals directed this court to hold an evidentiary hearing in accordance with Pavey v. Conley, 528 F.3d 494, 496-98 (7th Cir. 2008), to determine “whether prison staff improperly refused under the one-issue rule to process the first two grievances and thereby impeded Ajala’s access to his administrative remedies.” Ajala, 592 F. App’x at 528. In accordance with that directive, I scheduled a hearing for April 23, 2015, and asked the parties to submit briefs by April 9, 2015. Dkt. #90.

Now defendants have filed a document that they call “Defendants’ notice of waiver

of Pavey hearing and request for summary judgment briefing schedule.” Dkt. #92. Although the title of the notice is limited to the Pavey hearing, in the body of the notice, defendants state that they “agree to waive the Pavey hearing *and their exhaustion arguments.*” Id. (emphasis added). Accordingly, I am construing defendants’ notice as a decision to waive any argument that plaintiff did not exhaust his administrative remedies for the purpose of this case. As a result, I am canceling the hearing and directing the clerk of court to set a scheduling conference before Magistrate Judge Stephen Crocker.

ORDER

IT IS ORDERED that

1. The April 23, 2015 hearing and the corresponding briefing schedule are CANCELED.
2. The clerk of court is directed to cancel the writ of habeas corpus ad testificandum for plaintiff Mustafa-El K.A. Ajala, formerly known as Dennis Jones-El.
3. The clerk of court is directed to schedule a conference before Magistrate Judge Stephen Crocker for the setting of new deadlines for the remainder of the case.

Entered this 30th day of March, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge