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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

JEFFERY SANDRIDGE, Plaintiff,	)	
vs.	)	No. 2:15-cv-2176
JOEL ALLEN, et al., Defendants.	)	

SUMMARY JUDGMENT ORDER

This cause is before the Court for consideration of the Defendants' motion for summary judgment. [35]

Plaintiff alleges his constitutional rights were violated at the Jerome Combs Detention Center when Defendants Joel Allen, Ward Adams and Adam Memenga failed to protect him from an inmate assault on April 7, 2015. *See* January 15, 2016 Merit Review Order; March 15, 2016 Text Order. Plaintiff says two inmates pushed Plaintiff into his cell and attacked him for several minutes. Plaintiff claims the Defendants were not at the security desk and the unit was left unsecured during the fight. *See* January 15, 2016 Merit Review Order.

I. FACTS

Plaintiff was an inmate at the Jerome Combs Detention Center (JCDC) from March 26, 2015 through April 16, 2015; and again from April 23, 2015 through May 16, 2015. (Def. Mot., Plain. Depo. p. 28). Plaintiff was housed at the Cook County Jail during the interim period from April 16, 2015 to April 23, 2015. (Def. Mot., Plain. Depo. p. 28). Defendants Allen, Adams and Memenga were all JCDC correctional officers.

All JCDC inmates receive a copy of the Inmate Handbook when they enter the facility. (Def. Mot., Kol. Aff., p. 1). The Handbook contains a copy of the grievance procedure which requires all inmates to use an Inmate Grievance Form. (Def. Mot., Ex. E, p. 26). The grievance must also include the date, time and description of the incident; the name of the person the grievance is filed against; and the name of any witness. (Def. Mot., Ex. E, p. 26-27). Furthermore, the grievance "must be submitted within five (5) days of the occurrence related to the grievance," and must be placed in a locked box on the housing unit labeled "Inmate Request/Grievances." (Def. Mot., Ex. E, p. 26). All grievances will be collected within 72 hours, and a response provided within seven days if possible. If an inmate is not satisfied with the response, he "may" submit a letter to the Illinois Department of Corrections Jail and Detention Standards Unit, but no address or further information is provided in the handbook. (Def. Mot., Ex. E, p. 27). Plaintiff admits he was aware of these procedures as early as March 27, 2015. (Def. Mot., Plain. Depo. p. 38).

On April 7, 2015, Plaintiff was housed in the KA Pod in the K Pod unit. (Def. Mot., Plain. Depo. p. 29). This unit consists of four housing units identified as KA, KB, KC and KD. The four units are arranged in a circle around two central desks which are separated from the housing pods by security barriers including doors, walls and windows. Officers assigned to one desk supervise inmates in the KA and KD Pods, and officers at the other desk supervise inmates in the KB and KC Pods. The officers also electronically control the doors to the individual cells in each housing unit from their desks. (Def. Mot., Aln. Aff., p. 1).

Each JCDC housing unit is further equipped with a digital video surveillance system which records the day room area 24 hours a day. (Def. Mot., Kol. Aff., p. 3). The surveillance area does not show the inside of any inmate cells. The Defendants have provided a copy of the video from Plaintiff's housing unit on April 7, 2015 from 2:15 p.m. to 3:00 p.m. (Def. Mot., Kol. Aff., p. 4; Video [41]).

On April 7, 2015, Defendant Allen was assigned to supervise inmates in the KA and KD Pods; Defendant Ward and Defendant Memenga were assigned to the KB and KC Pods. (Def. Mot., Aln. Aff., p. 1; Adm. Aff., p. 1; Mem. Aff., p. 1). The Defendants do not explain why a second officer was not assigned to work with Defendant Allen to supervise the two units. KA Pod, where Plaintiff was housed, consisted of 10 individual, double-bunk cells and a large day room. Five of the cells were on the upper housing unit and five were on the lower housing unit. (Def. Mot., Aln. Aff., p. 1). Plaintiff was housed in Cell #3 on the lower tier. (Def. Mot., Aln. Aff., p. 2). The KA Pod was at maximum capacity with 20 inmates.

Defendant Allen electronically opened all cell doors in the KA Pod at approximately 1:50 p.m. on April 7, 2015 to allow inmates an opportunity to leave their cells and spend time in the day room. (Def. Mot., Aln. Aff., p. 2). Defendant Allen opened the doors while sitting at the security desk, and he remained at the desk "completing administrative tasks such as scheduling medical appointments for inmates." (Def. Mot., Aln. Aff., p. 2). When Plaintiff exited his cell, he left his cell door propped open. (Def. Mot., Plain. Depo. p. 63-64).

JCDC policy requires the housing pod officers to perform security checks or rounds every 25 minutes by walking through each of their assigned pods and visually ensuring the presence and welfare of all inmates. (Def. Mot., Aln. Aff., p. 2). Defendant Allen began his rounds at 2:05 p.m. (Def. Mot., Aln. Aff., p. 2). Defendant Allen began by walking through KD Pod, and admits he could not see KA Pod during this time. Defendant Allen moved to KA Pod at approximately 2: 30 p.m. (Def. Mot., Aln. Aff., p. 2).

At 2:19 p.m., Plaintiff says he was walking back to his cell when Inmate J.G. struck him in the head and pushed him into his cell. Both Inmate J.G. and Inmate C.W. then entered the cell and the door automatically locked behind them. (Def. Mot., Plain. Depo. p 53, 63-62). The video does not clearly indicate any assault before the three inmates entered Plaintiff's cell at 12:19:30. (Def. Mot., Video [41]). However, once in the cell, Plaintiff says Inmate J.G. held him while Inmate C.W. repeatedly punched the Plaintiff. (Def. Mot., Plain. Depo. p. 58).

At approximately 2:31 p.m. Defendant Allen looked into the Plaintiff's closed cell door and saw Inmate J.G. holding Plaintiff while Inmate C.W punched Plaintiff. (Def. Mot., Aln. Aff., p. 2). Defendant Allen immediately called for back-up officers and ordered all K Pod inmates on lockdown. (Def. Mot., Aln. Aff., p. 2; Adm. Aff., p. 1; Mem. Aff., p. 1). Within one minute, all of K Pod inmates were back in their individual cells on lockdown. At least six officers entered the unit by 2:32 p.m. and Defendant Adams directed them to Plaintiff's cell. (Def. Mot., Video [41]). Defendant Adams had no further involvement in the incident. (Def. Mot., Adm. Aff. p. 1).

Plaintiff's cell door was opened at approximately 2:33 p.m., and all responding officers, including Defendant Memenga, removed the three inmates from Plaintiff's cell. (Def. Mot., Video [41]). When verbal commands were insufficient, the officers used force including tasers. (Def. Mot., Aln. Aff., p. 3; Video [41]). The scene was cleared and all three inmates were removed by 2:34 p.m. (Def. Mot., Video [41]).[1]

Prior to Defendant Allen seeing the assault, none of the Defendants observed Inmate J.G. or Inmate C.W. push Plaintiff into his cell, nor did they observe any other physical contact. (Def. Mot., Aln. Aff., p. 2, 3; Adm. Aff., p 1; Mem. Aff., p. 1). Plaintiff admits he never told Defendant Allen or any other JCDC officer he was fearful of an attack from either inmate. (Def. Mot., Plain. Depo. p. 104; Aln. Aff., p. 3; Adm. Aff., p. 1; Mem. Aff., p. 1)

Plaintiff was transferred to an outside hospital immediately after the assault where he was diagnosed with facial contusions, mild soft-tissue swelling, and a subconjunctival hemorrhage. (Def. Mot., Plain. Depo. p. 75-76). Plaintiff was provided with ice and a morphine injection, and provided prescriptions for Ibuprofen and Narco. Plaintiff took the medication as prescribed and says he healed quickly. (Def. Mot., Plain. Depo. p. 77).

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[1] All times are verified by the video recording of the dayroom from KA pod. (Def. Mot., Video,[41]); *see Gillis v. Pollard*, 554 Fed.Appx. 502, 506 (7th Cir. 2014) (court may rely on uncontroverted video evidence at summary judgment); *Scott v. Harris*, 550 U.S. 372 (2007) (in deciding a motion for summary judgment, the court can and should accept as true the facts depicted by unchallenged video recordings where a reasonable jury could not reject that evidence).

Plaintiff was familiar with Inmate J.G. and occasionally spoken with him about individuals they both knew in the Cook County Jail. (Def. Mot., Plain. Depo., p. 56). Plaintiff did not know Inmate C.W. (Def. Mot., Plain. Depo., p. 57). Plaintiff never had any previous problems, arguments or harsh words with either inmate, and he has no idea why they attacked him on April 7, 2015. (Def. Mot., Plain. Depo., p. 58-61). Plaintiff admits he was surprised and taken off-guard by the assault. (Def. Mot., Plain. Depo., p. 59-60; 104-105).

Plaintiff remained at JCDC until he was transferred to Cook County on April 16, 2017. On April 18, 2015, Plaintiff filed his first grievance at the Cook County Jail. (Def. Mot., Plain. Depo., p. 30-32). The grievance is marked "non-grievance" and a note indicates it is to be referred to "Inmate Serv. Admin. (outside county)." (Def. Mot., Plain. Depo., p. 50). It is not clear from the record whether the grievance was ever sent to JCDC staff.

After Plaintiff returned to JCDC, he filed a grievance on April 24, 2015 concerning "a situation that involves me and some inmates of this facility." (Def. Mot., Plain. Depo., p. 38-40, 54). Plaintiff asks the facility to investigate the April 7, 2015 incident and preserve any video recordings. The response stated: "we have received your grievance. We keep all information that is needed." (Def. Mot., Plain. Depo. p. 54).

Plaintiff then filed a second grievance at JCDC on April 28, 2015 asking for a response to his grievance and a copy of the video recording. (Def. Mot., Plain. Depo. p. 56). The response informs Plaintiff he will not be given a copy of surveillance videos. (Def. Mot., Plain. Depo. p. 41, 56).

Plaintiff filed a third, undated grievance again asking for an investigation as well as "video footage of the incident." (Def. Mot., Plain. Depo. p. 57). JCDC staff responded on May 14, 2015: "you were involved in a fight and all officers responded appropriately." (Def. Mot., Plain. Depo. p. 57). Plaintiff did not submit a letter to the Illinois Department of Corrections Jail and Detention Standards Unit regarding any of his grievances.[2](Def. Mot., Plain. Depo. p. 36).

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56(a) provides that summary judgment shall be granted if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ.P. 56(a); *Ruiz-Rivera v. Moyer*, 70 F.3d 498, 500-01 (7th Cir. 1995). The moving party has the burden of providing proper documentary evidence to show the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986). Once the moving party has met its burden, the opposing party must come forward with specific evidence, not mere allegations or denials of the pleadings, which demonstrates that there is a genuine issue for trial. *Gracia v. Volvo Europa Truck, N.V.* , 112 F.3d 291, 294 (7th Cir. 1997). "[A] party moving for summary judgment can prevail just by showing that the other party has no evidence on an issue on which that party has the burden of proof." *Brazinski v. Amoco Petroleum Additives Co.* , 6 F.3d 1176, 1183 (7th Cir. 1993). "As with any summary judgment motion, we review cross-motions for summary judgment construing all facts,

[2] Most of the grievance copies provided to the Court as attachments to the deposition are illegible. (Def.Mot. p. 46-59). Nonetheless, Plaintiff reviewed the content of each grievance in his deposition testimony.

and drawing all reasonable inferences from those facts, in favor of the nonmoving party." *Laskin v. Siegel*, 728 F.3d 7314, 734 (7th Cir. 2013) (internal quotation marks omitted).

Accordingly, the non-movant cannot rest on the pleadings alone, but must designate specific facts in affidavits, depositions, answers to interrogatories or admissions that establish that there is a genuine triable issue; he must do more than simply show that there is some metaphysical doubt as to the material fact. *Anderson v. Liberty Lobby, Inc.* , 477 U.S. 242, 261 (1986) *quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *Hot Wax, Inc. v. Turtle Wax, Inc.*, 191 F.3d 813, 818 (7th Cir. 1999). Finally, a scintilla of evidence in support of the non-movant's position is not sufficient to oppose successfully a summary judgment motion; "there must be evidence on which the jury could reasonably find for the [non-movant]." *Anderson,* 477 U.S. at 252.

III. ANAYSIS

A. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Defendants Allen, Adams and Memenga first argue the Plaintiff did not exhaust his administrative remedies as required before filing his lawsuit on June 11, 2015. The Prison Litigation Reform Act provides:

> No action shall be brought with respect to prison conditions under Section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted. 42 U.S.C. §1997e(a).

The Seventh Circuit has taken a strict compliance approach to exhaustion requiring a detainee to pursue all available administrative remedies and comply with

the jail's procedural rules and deadlines. *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002); *see also Riccardo v. Rausch*, 375 F.3d 521, 523-24 (7th Cir. 2004); *Truly v. Sheahan*, 135 Fed.Appx. 869, 871 (7th Cir. 2005). "If an inmate fails to follow the grievance procedure rules, his claims will not be considered to be exhausted, but instead forfeited, and he will be barred from filing suit in federal court even if administrative remedies are for practical purposes no longer available to him due to his procedural default." *Pozo,* 286 F.3d at 1025.

Plaintiff was assaulted on April 7, 2015, and the jail grievance procedure required him to file his grievance within five days or on or before April 12, 2015. While Plaintiff was transferred to the Cook County Jail, he was not transferred until April 16, 2017, and he did not file his first grievance until 11 days after the incident on April 18, 2015 while in the Cook County Jail. Plaintiff provides no explanation for his failure to file a timely grievance. *See Pettiford v. Hamilton*, 2008 WL 4083171, at *3 (S.D.Ind. Sept. 3, 2008) (enforcing three day filing and finding "[r]elatively short deadlines for filing grievances have been enforced under the PLRA's exhaustion requirement."); *Johnson v Meadows*, 418 F.3d 1152 (11th Cir. 2005) (enforcing five day limit); *see also Lampkins v. Roberts,* 2007 WL 924746 (S.D.Ind. Mar. 27, 2007) (upholding jail's five day deadline); *Marshall v Anderson*, 2005 WL 2259539 at 2 (S.D.Ind. Sept 16, 2005) (enforcing 48 hour deadline). "Proper exhaustion demands compliance with an agency's deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings." *Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006); *see also Cannon* v. *Washington*, 418 F.3d 714, 718-19 (7th

Cir. 2005) (prisoner failed to exhaust when he failed to timely file a grievance by filing the grievance one day late of the six-month deadline).

Plaintiff did file grievances concerning the assault after he returned to JCDC on April 23, 2015. Defendants argue those grievances were untimely and did not provide all of the required information. Nonetheless, JCDC officials did not reject the grievances on this basis and instead provide a response. *See Riccardo v. Rausch*, 375 F.3d 521, 524 (7th Cir. 2004)("when a state treats a filing as timely and resolves it on the merits, the federal judiciary will not second-guess that action, for the grievance has served its function of alerting the state and inviting corrective action.").

Defendants also argue Plaintiff never appealed any grievance to the Illinois Department of Corrections Jail and Detention Standards Unit. However, this argument is not compelling. The jail procedures do not clearly indicate this is a requirement of exhaustion, nor do the procedures provide any specific information concerning this step. For instance, the handbook does not inform Plaintiff of the statutory requirement to provide a copy of the jail's decision with his letter, nor does it even provide any information on specifically where to send his letter. *See* 20 Ill. Admin. Code, § 701.160(c)(2); *see also Turner v. Huston*, 137 Fed.Appx. 880, 882 (7th Cir. 2005).

Based on the record before the Court, it could be argued Plaintiff fully exhausted his administrative remedies when he submitted additional grievances upon his return to the jail which were answered on the merits by jail staff, and the failure to provide adequate information about any additional, required appeal made this remedy unavailable to the Plaintiff. *See Dale v. Lappin*, 376 F.3d 652, 656 (7th Cir. 2004); *Lewis v.*

Washington, 300 F.3d 829, 833 (7th Cir. 2002). The Court need not address this issue because Plaintiff has failed to demonstrate the Defendants violated his constitutional rights.

B. FAILURE TO PROTECT

"Jail officials have a duty to protect inmates from violent assaults by other inmates." *Rice ex rel. Rice v. Corr. Med. Serv.*, 675 F.3d 650, 669 (7th Cir. 2012) c*iting Farmer v. Brennan*, 511 U.S. 825, 833 (1988). "However, a constitutional violation does not occur 'every time an inmate gets attacked by another inmate.'" *Shaffer v. Randall*, 2017 WL 1739913, at *3 (N.D.Ill. May 4, 2017) *quoting Dale v. Poston*, 548 F.3d 563, 569 (7th Cir. 2008). "Jails, 'after all, are dangerous places often full of people who have demonstrated aggression.'" *Shaffer,* 2017 WL 1739913, at *3 *quoting Dale,* 548 F.3d at 569.

To demonstrate a constitutional violation, a plaintiff must establish: (1) he faced a substantial risk of serious injury, and (2) the defendant acted with deliberate indifference to that risk. *Farmer,* 511 U.S. at 834; *Brown v. Budz*, 398 F.3d 904, 909 (7th Cir. 2005). "[A] complaint that identifies a specific, credible, and imminent risk of serious harm and identifies the prospective assailant typically will support an inference that the official to whom the complaint was communicated had actual knowledge of the risk." *Gevas v. McLaughlin*, 798 F.3d 475, 480–81 (7th Cir. 2015) (citations omitted). However, a plaintiff can also prove actual knowledge by demonstrating that a correctional official was aware of an obvious risk. *Mayoral v. Sheahan*, 245 F.3d 934, 938 (7th Cir. 2001).

Only Defendant Allen was assigned to supervise Plaintiff's housing unit: the KA Pod. While Defendants admit typically two officers sit at the security desk and monitor both KA and KD Pods, based on the record before the Court, only Defendant Allen had the assignment on April 7, 2015. Nonetheless, Defendant Allen argues no JCDC correctional officer had any reason to know Inmate J.G. or Inmate C.W posed any threat to the Plaintiff. Plaintiff admits in his response that he did not notify any staff member of a potential danger because the assault was "unexpected." (Plain. Resp., p. 1).

Plaintiff argues the inmates should not have been housed together and makes reference to federal detainees housed with other pretrial detainees. However, Plaintiff does not clearly explain why there was any specific danger, or how any Defendant would know of a specific threat to the Plaintiff, or a specific danger from Inmate J.G or C.W. *See Rockwell Automation, Inc. v. National Union Fire Insurance Co. of Pittsburgh, PA*, 544 F.3d 752, 757 (7th Cir. 2008)("mere speculation or conjecture will not defeat a summary judgment motion"); *Wells v. Bureau County*, 723 F.Supp.2d 1061, 1087 (C.D.Ill.,2010)("[a]t summary judgment, a plaintiff cannot rest on conclusory allegations but rather must come forward with specific citations to evidence in the record supporting his claims."); *Hemsworth v. Quotesmith.Com, Inc.*, 476 F.3d 487, 490 (7th Cir. 2007)("the nonmoving party must identify with reasonable particularity the evidence upon which the party relies.").

Plaintiff next argues even though the assault was unexpected, no one was monitoring his unit when it occurred and no one broke up the fight for "20 minutes." (Plain. Resp., p. 1). The Court first notes the video recording shows Plaintiff was alone

in his cell with the other two inmates for 12 minutes before Defendant Allen observed the fight, and 14 minutes before officers entered the cell. (Def. Mot., Video [41]). Nonetheless, the Seventh Circuit has found a failure to supervise "could give rise to an inference of conscious disregard of a significant risk of violence." *Junior v. Anderson*, 724 F.3d 812, 815 (7th Cir. 2013).

In *Junior v. Anderson,* the Seventh Circuit specifically noted the defendant officer ignored several signs of potential danger before the assault occurred. The officer was working in the maximum security tier of the jail and knew the inmates posed a great threat. The officer knew a light in the corridor between the cells was not on. In addition, the defendant knew two cells were not properly locked and she had not taken any steps to address the problem. Furthermore, the defendant knew when she opened cell doors, she had released double the number of inmates typically allowed out at one time to congregate in a darkened area. Nonetheless, the plaintiff alleged the correctional officer left her post for 20 minutes while he was stabbed repeatedly. *Id* at 814.

There were no advance warning signs in the case before the Court. In addition, Defendant Allen was performing his required rounds when the assault first occurred, but discovered the altercation 12 minutes later and immediately called for help. The Court also notes Defendant Allen was not required to intervene in the incident prior to those officers arriving. *See Guzman v. Sheahan,* 495 F.3d 852, 858 (7th Cir. 2007) ("prison guard, acting alone, is not required to take the unreasonable risk of attempting to break up a fight between two inmates when the circumstances make it clear that such action

would put [him] in significant jeopardy."); *Shields v. Dart*, 664 F.3d 178, 181 (7th Cir. 2011) (no deliberate indifference when officer "did not open the door to the day room to command the other detainees to stop the attack, but she took other steps to intervene by promptly calling for back-up and monitoring the fight from the secure area until other officers arrived.").

Even if Plaintiff could demonstrate Defendant Allen was negligent or grossly negligent for leaving Plaintiff's housing unit unsupervised the time he was doing his rounds in the KD Pod, this is not sufficient to establish a constitutional violation. *See Mitchell v. Elrod,* 1986 WL 7696 (N.D. Ill. June 27, 1986) (guards failure to be at post during alleged sexual assault was an act of omission constituting negligence, but not a claim pursuant to §1983); *see also Goka v. Bobbitt*, 862 F.2d 646, 651 (7th Cir. 1988) ("When prison officials are unaware of the risk involved and violate a policy which may have prevented injury to an inmate, courts have generally found no constitutional violation."); *O'Brien v. Indiana Dept. of Correction ex.rel. Turner,* 495 F.3d 505, 510 (7th Cir. 2007) ("[e]xercising poor judgment…falls short of meeting the standard of consciously disregarding a known risk to (plaintiff's) safety.*").*

At summary judgment, Plaintiff must be able to demonstrate Defendant Allen acted with "conscious disregard" of a significant risk of violence to him. *See Junior,* 724 F.3d at 815. "This requires a showing that the officer acted with the equivalent of criminal recklessness, not negligence or even gross negligence." *Phipps v. Collman*, 2017 WL 770163, at *3 (S.D.Ill. Feb. 28, 2017). The Defendant must have "had actual knowledge of an impending harm easily preventable, so that a conscious, culpable

refusal to prevent the harm can be inferred from the defendant's failure to prevent it." *Santiago v. Walls,* 599 F.3d 749, 756 (7th Cir. 2010). Plaintiff has made no such showing. Defendant Allen's motion for summary judgment is granted.

The record before the Court also demonstrates the remaining two Defendants were not responsible for supervising Plaintiff's specific housing unit on the day of the assault. Once Defendant Allen called for back-up officer, Defendant Adams pointed the officers to Plaintiff's cell, and Defendant Memenga assisted in handcuffing the three inmates and removing them from the cell. There is no evidence before the Court that Defendants Adams and Memenga either knew Plaintiff faced a substantial risk of serious injury prior to the assault, or acted with deliberate indifference to any risk. Furthermore, once they were alerted to the assault by Defendant Allen, the inmates were subdued within three minutes. . (Def. Mot., Video [41]). Defendant Adams and Memenga's motion for summary judgment is also granted.

IT IS THEREFORE ORDERED:

1) The Defendants' motion for summary judgment is granted pursuant to Federal Rule of Civil Procedure 56. [35]. The Clerk of the Court is directed to enter judgment in favor of the Defendants and against Plaintiff. This case is terminated, with the parties to bear their own costs.

2) If Plaintiff wishes to appeal this judgment, he must file a notice of appeal with this Court within 30 days of the entry of judgment. Fed. R. App. P. 4(a)(4). A motion for leave to appeal in forma pauperis MUST identify the issues the Plaintiff will present on appeal to assist the court in determining whether the

appeal is taken in good faith. *See* Fed. R. App. P. 24(a)(1)(c); *See also Celske v. Edwards*, 164 F.3d 396, 398 (7th Cir. 1999)(an appellant should be given an opportunity to submit a statement of his grounds for appealing so that the district judge "can make a reasonable assessment of the issue of good faith."); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000) (providing that a good faith appeal is an appeal that "a reasonable person could suppose…has some merit" from a legal perspective). If Plaintiff does choose to appeal, he will be liable for the $505.00 appellate filing fee regardless of the outcome of the appeal.

Entered this 9th day of August, 2017.

s/ Joe B. McDade

JOE BILLY MCDADE
UNITED STATES DISTRICT JUDGE