



## Redding v. Schnell et al

2022 | Cited 0 times | D. Minnesota | June 27, 2022

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Nico Redding,

Plaintiff, v. Paul Schnell, et al.,

Defendants.

No. 21-cv-1930 (KMM/LIB)

ORDER

On April 25, 2022, Plaintiff Nico Redding filed a Motion for Summary Judgment and a supporting Memorandum seeking judgment in his favor on the merits of his underlying claims. [ECF Nos. 87 88]. On May 20, 2022, United States Magistrate Judge Leo I. Brisbois found that Mr. summary judgment motion was procedurally premature because two distinct groups of Defendants had filed motions arguing that Mr. Redding failed to properly exhaust his administrative remedies prior to filing this lawsuit. [ECF No. 95]. This matter is now before this Court on Mr. filed Request for the District Court Judge to Review the Stricken Motions All Other 96]. For ease of reference, the Court will refer to this document as Mr.

Under Federal Rule of Civil Procedure 72, a party may serve and file objections to laim or defense within 14 days after being served with a copy of that order. Fed. R. Civ. P. 72(a).

CASE 0:21-cv-01930-KMM-LIB Doc. 97 Filed 06/27/22 Page 1 of 4

Id. Rule 72 also

recommendation, the district court

reviews the portion of the recommended disposition de novo. Id.

For the reasons that follow, Mr. e Order is



## Redding v. Schnell et al

2022 | Cited 0 times | D. Minnesota | June 27, 2022

erroneous nor contrary to law. Although Mr. Redding's Order does not provide any recommended disposition of the merits of any claim or defense.

Second, and more importantly, this Court finds that Judge Brisbois properly evaluated the circumstances of this case and made a case-management decision that resolution of the exhaustion issues should be addressed before consideration of the merits of Mr. Redding's lawsuit. Mr. Redding states that he filed his summary judgment motion after he responded to the pending defense motion and that he is a non-attorney who is litigating this case himself. He also indicates that the conditions at the facility where he is confined make it difficult to work on his case. [ECF No. 96]. Civil litigation in federal court is full of procedural quirks that can be challenging for any non-lawyer to navigate, and the Court has no doubt that prison conditions during the ongoing concerns over the

CASE 0:21-cv-01930-KMM-LIB Doc. 97 Filed 06/27/22 Page 2 of 4

spread of COVID can make litigation for incarcerated persons representing themselves

May 20th Order should be overturned. And as the Court explains below, that Order leaves open the possibility for Mr. Redding to renew his own request for summary judgment in his own favor at a more appropriate time.

Judge Brisbois pointed out that there is a federal law which requires an incarcerated person, like Mr. Redding, to exhaust available administrative remedies before bringing a civil action regarding the conditions of his confinement. [ECF No. 95 at 2-3 (citing 42 U.S.C. § 1997e(a))]. Because the motion to dismiss filed by the Centurion Defendants and the motion for summary judgment filed by the DOC Defendants both assert that Mr. Redding did not exhaust his administrative remedies before he filed this case, Judge Brisbois properly found that it was premature to reach the merits of Mr. Redding until the exhaustion issue is resolved. If the Defendants are ultimately unsuccessful in demonstrating that Mr. Redding has failed to exhaust available administrative remedies, then the litigation regarding the merits of his claims will proceed. Nothing in Mr. Redding's later seeking summary judgment on the merits of his own claims. Accordingly, the May 20th Order [ECF No. 95] is AFFIRMED and the Objection [ECF No. 96] is OVERRULED.

Finally, in his Objection, Mr. Redding requests that this Court appoint counsel. [ECF No. 96]. At this time, Mr. Redding has no constitutional or statutory right to appointed counsel. , 52 F.3d 777, 780 (8th Cir. 1995).

CASE 0:21-cv-01930-KMM-LIB Doc. 97 Filed 06/27/22 Page 3 of 4

1915(e)(1). Factors to consider in deciding whether to recruit counsel include the factual and legal complexity of the underlying issues, the existence of conflicting testimony, and the ability of the indigent plaintiff to investigate the facts and present his claims. *Phillips v. Jasper Cnty. Jail*, 437 F.3d



## Redding v. Schnell et al

2022 | Cited 0 times | D. Minnesota | June 27, 2022

791, 794 (8th Cir. 2006). Though sympathetic to the circumstances facing Mr. Redding, the Court concludes that the relevant factors weigh against recruiting counsel in this proceeding. The legal and factual issues are not terribly complex, there is no conflicting testimony at this stage where the skilled questioning of counsel may be needed, there is no indication that Mr. Redding is unable to investigate the facts, and he has demonstrated himself to be capable of presenting his claims and communicating effectively with the Court.

Date: June 27, 2022 s/ Katherine M. Menendez Katherine M. Menendez United States District Judge

CASE 0:21-cv-01930-KMM-LIB Doc. 97 Filed 06/27/22 Page 4 of 4

