

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Indianapolis)
CIVIL DOCKET FOR CASE #: 1:23-cv-00263-RLY-TAB**

HOWARD v. WEDDELL et al
Assigned to: Judge Richard L. Young
Referred to: Magistrate Judge Tim A. Baker
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/10/2023
Jury Demand: Defendant
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff**DAVID HOWARD**

represented by **DAVID HOWARD**
936576
PENDLETON - CF
PENDLETON CORRECTIONAL
FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064
PRO SE

V.

Defendant**BRANDON WEDDELL**
Officer

represented by **Brandyn Lee Arnold**
INDIANA ATTORNEY GENERAL
Indiana Government Center South, 5th
Floor
302 West Washington St.
Indianapolis, IN 46204-2770
317-232-6201
Fax: 317-232-7979
Email: brandyn.arnold@atg.in.gov
ATTORNEY TO BE NOTICED

David Matthew Price

Office of the Indiana Attorney General
302 W Washington Street
Ste IGCS 5th Floor
Indianapolis, IN 46204
317-232-5696
Fax: 317-232-7979
Email: david.price@atg.in.gov
ATTORNEY TO BE NOTICED

Defendant**JOHN MILLER***Sergeant*represented by **Brandyn Lee Arnold**

(See above for address)

*ATTORNEY TO BE NOTICED***David Matthew Price**

(See above for address)

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/10/2023	1	CONSENT to Prisoner E-Service by DAVID HOWARD located at PENDLETON CF. Pursuant to General Order 2013-1, documents submitted by DAVID HOWARD to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (DRB) (Entered: 02/10/2023)
02/10/2023	2	COMPLAINT against JOHN MILLER, BRANDON WEDDELL, filed by DAVID HOWARD. (No fee paid with this filing) (Attachments: # 1 Civil Cover Sheet)(DRB) (Entered: 02/10/2023)
02/10/2023	3	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit)(DRB) (Entered: 02/10/2023)
02/10/2023	4	AFFIDAVIT OF DAVID HOWARD FOR COMPLIANCE WITH SCREENING OF OFFENDER LITIGATION by DAVID HOWARD. (DRB) (Entered: 02/10/2023)
02/10/2023	5	Notice to File Rule 7.1 Disclosure Statement. (RAGS) (DRB) (Entered: 02/10/2023)
02/10/2023	6	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DRB) (Entered: 02/10/2023)
02/14/2023	7	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. (JRT) (Entered: 02/14/2023)
02/26/2023	39	REQUEST for Production of Documents, filed by Plaintiff DAVID HOWARD. (CKM) (Entered: 02/28/2024)
02/28/2023	8	ORDER granting 3 MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND ASSESSING INITIAL PARTIAL FILING FEE - David Howard's motion for leave to proceed in forma pauperis, dkt. 3 , is granted to the extent that he is assessed an initial partial filing fee of \$13.08. Mr. Howard will have through March 28, 2023, to pay this sum to the clerk of the District Court. The plaintiff is informed that after the initial partial filing fee is paid, he will be obligated to make monthly payments of 20 percent of the preceding month's income each month that the amount in his account exceeds \$10.00, until the full filing fee of \$350.00 is paid. After the initial partial filing fee is received, a collection order will be issued to the plaintiff and the plaintiff's custodian, and the Court will screen the complaint in accordance with 28 U.S.C. § 1915A. Signed by Judge Richard L. Young on 02/28/2023. (AAS) (Entered: 02/28/2023)

		02/28/2023)
03/03/2023	9	CONSENT to Jurisdiction to US Magistrate Judge by DAVID HOWARD. (JRB) (Entered: 03/03/2023)
03/03/2023	10	MOTION for Extension of Time to Pay Initial Partial Filing Fee, filed by Plaintiff DAVID HOWARD. (JRB) (Entered: 03/03/2023)
03/17/2023	11	MOTION to Grant Motion for Time, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit)(AAS) (Entered: 03/17/2023)
03/20/2023	12	ORDER - The court ordered David Howard to pay an initial partial filing fee no later than March 28, 2023. Dkt. 8 . Mr. Howard's motions to extend that deadline, dkts. 10 and 11 , are granted insofar as the court vacates the order assessing an initial partial filing fee. The court will issue a separate order facilitating the collection of the filing fee and then, in due course, screen the complaint pursuant to 28 U.S.C. § 1915A. Signed by Judge Richard L. Young on 03/20/2023. (AAS) (Entered: 03/20/2023)
03/22/2023	13	ORDER Directing Monthly Payments be made from Prison Account of DAVID HOWARD. Copy to Warden via US Mail. Copy to Finance Department via Email. Signed by Magistrate Judge Tim A. Baker on 3/22/2023.(SWM) (Entered: 03/22/2023)
03/29/2023	14	MOTION for the Court to Take Notice, filed by Plaintiff DAVID HOWARD. (JRB) Modified on 3/30/2023 (JRB). (Entered: 03/30/2023)
05/12/2023	15	ORDER SCREENING COMPLAINT AND DIRECTING FURTHER PROCEEDINGS - The action will proceed with the claims identified in Part III. These are the only claims the court identified when screening the complaint. If Mr. Howard believes he asserted additional claims that the court failed to address, he must notify the court no later than June 2, 2023. The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to the defendants in the manner specified by Rule 4(d). Process will consist of the complaint (dkt. 2), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. The clerk is directed to serve the defendants, who are Indiana Department of Correction employees, electronically. Mr. Howard's motion to notify the court that he is not receiving proper medical care, dkt. 14 , is granted to the extent the court has docketed his submission but is otherwise denied. SEE ORDER. Signed by District Judge Richard L Young on 5/12/23.(JRB) (Entered: 05/12/2023)
05/12/2023	16	NOTICE of Lawsuit & Waiver Issued by Clerk as to 1) Brandon Weddell; 2) John Miller. (JRB) (Entered: 05/12/2023)
05/12/2023	17	Documents to be Sent via Electronic Notice - re 16 NOTICE of Lawsuit & Waiver Issued by Clerk, 2 Complaint, 15 Entry Electronic Notice to IDOC. (JRB) (Entered: 05/12/2023)
06/12/2023	18	RECEIPT #5593 for partial filing fee in the amount of \$5.00, paid by DAVID HOWARD. (DJH) (Entered: 06/12/2023)
06/13/2023	19	NOTICE of Appearance by Brandyn Lee Arnold on behalf of Defendants JOHN MILLER, BRANDON WEDDELL. (Arnold, Brandyn) (Entered: 06/13/2023)
06/13/2023	20	WAIVER OF SERVICE Returned Executed, filed by JOHN MILLER, BRANDON WEDDELL. JOHN MILLER waiver sent on 5/12/2023; BRANDON WEDDELL waiver sent on 5/12/2023. (Arnold, Brandyn) (Entered: 06/13/2023)

06/13/2023	21	NOTICE of Appearance by David Matthew Price on behalf of Defendants JOHN MILLER, BRANDON WEDDELL. (Price, David) (Entered: 06/13/2023)
06/27/2023	22	RECEIPT #5795 for Partial Filing fee in the amount of \$12.00, paid by DAVID HOWARD. (CCG) (Entered: 06/27/2023)
07/11/2023	23	ANSWER to 2 Complaint and Affirmative Defenses, filed by JOHN MILLER, BRANDON WEDDELL.(Arnold, Brandyn) (Entered: 07/11/2023)
07/14/2023	24	ENTRY DIRECTING DEVELOPMENT OF EXHAUSTION DEFENSE AND ISSUING PARTIAL STAY - The exhaustion defense will be resolved pursuant to the following schedule. The defendants shall have through August 25, 2023, in which to either: file a dispositive motion in support of the exhaustion defense; file a notice with the Court specifically identifying the fact issue(s) that preclude resolution of this affirmative defense via a dispositive motion and requesting a Pavey hearing; or file a notice with the Court withdrawing the exhaustion defense.The failure to pursue any of these options by the above deadline constitutes an abandonment of the exhaustion defense. If a dispositive motion is filed, the plaintiff shall have twenty-eight (28) days in which to respond. The movant shall then have fourteen (14) days in which to reply. Signed by Magistrate Judge Tim A. Baker on 07/14/2023.(AAS) (Entered: 07/14/2023)
07/14/2023	25	RECEIPT #6079 for partial filing fee in the amount of \$8.00, paid by DAVID HOWARD. (DJH) (Entered: 07/14/2023)
08/25/2023	26	MOTION for Extension of Time to September 1, 2023 in which to 24 Entry <i>File Dispositive Motion</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 08/25/2023)
08/30/2023	27	ORDER granting 26 Motion for Extension of Time to File Dispositive Motions by 9/1/2023. Signed by Magistrate Judge Tim A. Baker on 8/30/2023.(JRB) (Entered: 08/30/2023)
09/01/2023	28	MOTION for Extension of Time to September 8, 2023 in which to 27 Order on Motion for Extension of Time to FileScheduling <i>File Dispositive Motion</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order) (Arnold, Brandyn) (Entered: 09/01/2023)
09/08/2023	29	MOTION for Extension of Time to September 22, 2023 in which to 28 MOTION for Extension of Time to September 8, 2023 in which to 27 Order on Motion for Extension of Time to FileScheduling <i>File Dispositive Motion</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 09/08/2023)
09/08/2023	30	ORDER granting 28 Motion for Extension of Time - Dispositive Motions due by 9/8/2023. Signed by Magistrate Judge Tim A. Baker on 9/8/2023.(JRB) (Entered: 09/11/2023)
09/12/2023	31	RECEIPT #6861 for Partial Filing fee in the amount of \$.64, paid by DAVID HOWARD. (CCG) (Entered: 09/13/2023)
09/18/2023	32	ORDER granting 29 Motion for Extension of Time - The dispositive motion deadline with respect to the exhaustion defense is extended to September 22, 2023. SEE ORDER. Copy sent to Plaintiff via US Mail. Signed by Magistrate Judge Tim A. Baker on 9/18/2023.(JRB) (Entered: 09/18/2023)

09/22/2023	33	NOTICE of <i>Withdrawal of Exhaustion Defense</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL (Arnold, Brandyn) (Entered: 09/22/2023)
09/25/2023	34	ORDER ADDRESSING WITHDRAWAL OF EXHAUSTION DEFENSE, LIFTING PARTIAL STAY, AND DIRECTING FURTHER PROCEEDINGS - Defendants have notified the Court that they are withdrawing the affirmative defense of failure to exhaust administrative remedies. See dkt. 33 . Accordingly, the partial stay issued at Docket No. 24 is LIFTED. The Court will issue a separate pretrial scheduling order governing how this action shall proceed. Signed by Magistrate Judge Tim A. Baker on 9/25/2023. (SWM) (Entered: 09/25/2023)
09/25/2023	35	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 4/25/2024. Discovery due by 3/25/2024. Signed by Magistrate Judge Tim A. Baker on 9/25/2023.(SWM) (Entered: 09/25/2023)
01/24/2024	36	NOTICE re: Settlement Conference, filed by Plaintiff DAVID HOWARD (JRB) (Entered: 01/25/2024)
02/23/2024	37	MOTION to Take Deposition from David Howard , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 02/23/2024)
02/26/2024	38	NOTICE <i>Regarding Settlement Conference</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL, re 35 Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation. (Arnold, Brandyn) (Entered: 02/26/2024)
03/04/2024	40	ORDER granting 37 Motion to Take Deposition from David Howard, DOC #936576. Signed by Magistrate Judge Tim A. Baker on 3/4/2024 (Copy mailed to Plaintiff). (LBT) (Entered: 03/04/2024)
03/15/2024	41	MOTION for Extension of Time to Extend the Dispositive Motion Deadline, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Text of Proposed Order)(LF) (Entered: 03/18/2024)
03/20/2024	42	MOTION for Extension of Time to April 24, 2024, and May 24, 2024 in which to 35 Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation <i>Discovery and Dispositive Motion Deadlines</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 03/20/2024)
03/20/2024	43	MOTION for Extension of Time to April 3, 2024 <i>to Respond to Discovery Requests</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 03/20/2024)
03/22/2024	44	ORDER ON MOTIONS FOR EXTENSION OF TIME - The parties' motions to extend the discovery and summary judgment deadlines, dkts. 41 and 42 , are granted to the extent that the deadline to complete discovery is extended up to and including 4/24/2024, and the deadline for filing summary judgment motions is extended up to and including 5/24/2024. Defendants' motion for extension of time to respond to Plaintiff's request for production of documents, dkt. 43 , is granted. Defendants shall respond to

		the request for production on or before April 3, 2024. Signed by Magistrate Judge Tim A. Baker on 3/22/2024.(KAA) (Entered: 03/22/2024)
04/03/2024	45	MOTION for Extension of Time to April 9, 2024 in which to 44 Order on Motion for Extension of Time to File Scheduling <i>Serve Discovery Responses</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order) (Arnold, Brandyn) (Entered: 04/03/2024)
04/10/2024	46	ORDER granting 45 MOTION TO EXTEND THE DISCOVERY AND DISPOSITIVE MOTION DEADLINES: IT IS HEREBY ORDERED the Defendants' discovery responses to Plaintiff shall be due by April 9, 2024. See Order. Signed by Magistrate Judge Tim A. Baker on 4/10/2024. (LF) (Entered: 04/10/2024)
04/10/2024	47	MOTION to Compel, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (JSR) (Entered: 04/11/2024)
04/24/2024	48	RESPONSE in Opposition re 47 MOTION to Compel , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Exhibit A) Initial Disclosures) (Arnold, Brandyn) (Entered: 04/24/2024)
04/24/2024	49	MOTION for Extension of Time to May 15, 2024, and June 14, 2024 in which to 44 Order on Motion for Extension of Time to File Scheduling <i>Discovery and Dispositive Motion Deadlines</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 04/24/2024)
04/29/2024	50	ORDER GRANTING MOTION FOR EXTENSION OF TIME - Pending before the Court is Defendants' motion to extend the discovery and summary judgment deadlines. Dkt. 49 . The Court finds good cause to support the requested extensions, and the motion, dkt. 49 , is granted to the extent that the deadline for completing discovery is extended up to and including May 15, 2024, and the deadline for filing summary judgment motions is extended up to and including June 14, 2024. Signed by Magistrate Judge Tim A. Baker on 04/29/2024. (AJG) (Entered: 04/29/2024)
05/01/2024	51	RESPONSE, re 48 Response in Opposition to Motion, filed by Plaintiff DAVID HOWARD. (LF) (Entered: 05/03/2024)
05/10/2024	52	ORDER ON MOTION TO COMPEL - Defendants have represented without contradiction from Mr. Howard that they served him with the responses. Therefore, the motion to compel, dkt. 47 , is denied as moot. (See Order). Signed by Magistrate Judge Tim A. Baker on 05/10/2024. (AAT) (Entered: 05/10/2024)
06/14/2024	53	MOTION for Extension of Time to July 5, 2024 in which to 50 Order on Motion for Extension of Time to File <i>Dispositive Motions</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 06/14/2024)
06/24/2024	54	ORDER GRANTING MOTION TO EXTEND THE DISCOVERY AND DISPOSITIVE MOTION DEADLINES - Defendants, by counsel, filed a motion to extend the dispositive motion deadline. The Court, being duly advised, now GRANTS the motion, dkt. 53 . IT IS HEREBY ORDERED the dispositive motion deadline is extended to July 5, 2024. Defendants should not request further enlargements of this deadline. Copy mailed to Plaintiff. Signed by Magistrate Judge Tim A. Baker on 6/24/2024. (BAA) (Entered: 06/25/2024)

07/05/2024	55	MOTION for Partial Summary Judgment , filed by Defendant JOHN MILLER. (Attachments: # 1 Exhibit A - Deposition Transcript of David Howard, # 2 Exhibit B - Conduct Reports, # 3 Exhibit C - Disciplinary Hearing Video Evidence Review Reports, # 4 Exhibit D - Disciplinary Hearing Reports, # 5 Exhibit E - Disciplinary Hearing Appeal, # 6 Exhibit F - Plaintiff's Conduct Summary)(Arnold, Brandyn) (Entered: 07/05/2024)
07/05/2024	56	NOTICE of Manual Filing of Exhibits G and H re 55 MOTION for Partial Summary Judgment , filed by JOHN MILLER (Arnold, Brandyn) (Entered: 07/05/2024)
07/05/2024	57	NOTICE Regarding Right to Respond to and Submit Evidence in Opposition to Motion for Summary Judgment, filed by Defendant JOHN MILLER, re 55 MOTION for Partial Summary Judgment . (Arnold, Brandyn) (Entered: 07/05/2024)
07/05/2024	58	BRIEF/MEMORANDUM in Support re 55 MOTION for Partial Summary Judgment , filed by Defendant JOHN MILLER. (Arnold, Brandyn) (Entered: 07/05/2024)
07/08/2024	60	MOTION for Summary Judgment, filed by Plaintiff DAVID HOWARD. (JRB) (Entered: 07/10/2024)
07/08/2024	61	BRIEF in Support of 60 MOTION for Summary Judgment, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit)(JRB) (Entered: 07/10/2024)
07/08/2024	62	Statement of Material Facts in Support of 60 MOTION for Summary Judgment, filed by Plaintiff DAVID HOWARD. (JRB) (Entered: 07/10/2024)
07/08/2024	63	DECLARATION in Support of 60 Motion for Summary Judgment by DAVID HOWARD. (JRB) (Entered: 07/10/2024)
07/09/2024	59	RECEIPT #11137 for Partial Filing fee in the amount of \$.09, paid by DAVID HOWARD. (CCG) (Entered: 07/09/2024)
07/11/2024	64	Receipt of one CD re 56 NOTICE of Manual Filing of Exhibits G and H re 55 MOTION for Partial Summary Judgment , filed by JOHN MILLER (Arnold, Brandyn). (BAA) (Entered: 07/11/2024)
07/26/2024	65	RESPONSE in Opposition re 55 MOTION for Partial Summary Judgment , filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit)(SWM) (Entered: 07/26/2024)
08/02/2024	67	DECLARATION in Support re 65 Response in Opposition to Motion by DAVID HOWARD. (JSR) (Entered: 08/06/2024)
08/02/2024	68	BRIEF in Support, re 67 Declaration, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibits) (JSR) (Entered: 08/06/2024)
08/02/2024	69	Statement of Material Facts in Dispute in Support re 65 Response by DAVID HOWARD. (JSR) (Entered: 08/06/2024)
08/05/2024	66	MOTION for Extension of Time to File Response to September 3, 2024 re 60 MOTION for Summary Judgment , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 08/05/2024)
08/09/2024	70	ORDER - Pending before the Court is Defendants' motion to extend their summary judgment response deadline. Dkt. 66 . The Court finds good cause for the requested extension, and the motion, dkt. 66 , is granted. Defendants shall have up to and including September 3, 2024, to respond to Plaintiff's summary judgment motion, dkt.

		60 . Signed by Magistrate Judge Tim A. Baker on 8/9/2024. (JSR) (Entered: 08/09/2024)
08/16/2024	71	MOTION for Extension of Time to 09/03/2024 , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order Proposed Order Granting MEOT)(Arnold, Brandyn) Modified on 8/22/2024 - Updated event type (JSR). (Entered: 08/16/2024)
08/22/2024	72	ORDER - Pending before the Court is Defendants' motion to extend their summary judgment reply deadline. The Court finds good cause for the requested extension, and the motion, dkt. 71 , is granted. Any reply in support of Defendants' pending summary judgment motion, dkt. 60 , must be filed on or before September 3, 2024. (See Order.) Signed by Magistrate Judge Tim A. Baker on 8/22/2024. (JSR) (Entered: 08/22/2024)
09/03/2024	73	MOTION for Extension of Time to File Response to September 10, 2024 re 60 MOTION for Summary Judgment, 55 MOTION for Partial Summary Judgment <i>Reply in Support</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Text of Proposed Order)(Arnold, Brandyn) (Entered: 09/03/2024)
09/10/2024	74	ORDER - Pending before the Court is Defendants' motion requesting a seven-day extension of their deadlines to file a reply in support of their motion for partial summary judgment and a response to Plaintiff's motion for summary judgment. Dkt. 73 . Given the brevity of the requested extension, the Court finds good cause to support the motion, dkt. 73 , and it is granted. Defendants shall have up to and including September 10, 2024, to file their reply in support of their pending partial summary judgment motion and their response to Plaintiff's pending summary judgment motion. The Court does not anticipate further extensions of these deadlines. Signed by Magistrate Judge Tim A. Baker on 9/10/2024. (JSR) (Entered: 09/10/2024)
09/10/2024	75	RESPONSE in Opposition re 60 MOTION for Summary Judgment <i>and Reply in Support of Motion for Partial Summary Judgment [ECF 55]</i> , filed by Defendants JOHN MILLER, BRANDON WEDDELL. (Attachments: # 1 Exhibit I) Declaration of Brandon Weddell, # 2 Exhibit J) Declaration of John Miller, # 3 Exhibit K) Photographs of David Howard, # 4 Exhibit L) Medical Record Dated February 7, 2022, # 5 Exhibit M) Defendant Weddells Use of Force Report)(Arnold, Brandyn) (Entered: 09/10/2024)
09/18/2024	76	REPLY to 75 Response in Opposition to 60 MOTION for Summary Judgment, filed by Plaintiff DAVID HOWARD. (BAA) (Entered: 09/18/2024)
09/18/2024	77	Statement of Material Facts in Dispute by DAVID HOWARD. (BAA) (Entered: 09/18/2024)
10/10/2024	78	RECEIPT #12519 for partial filing fee in the amount of \$1.35, paid by DAVID HOWARD. (DJH) (Entered: 10/11/2024)
11/13/2024	79	RECEIPT #12928 for Partial Filing fee in the amount of \$0.08, paid by DAVID HOWARD. (BAA) (Entered: 11/15/2024)
11/22/2024	80	MOTION for Court Investigation, filed by Plaintiff DAVID HOWARD. (JSR) ***Filed pursuant to Order 107 under 1:20-cv-00352-TWP-MJD*** (Entered: 11/25/2024)
11/26/2024	81	ORDER denying 80 Motion - This action is based on David Howard's allegations that correctional officers violated his First and Eighth Amendment rights in May 2022. See dkt. 15 (screening order). Mr. Howard has filed a motion asking the court to issue injunctive preliminary injunctive relief concerning his current conditions of confinement, including acts of retaliation he describes as beginning after the parties'

		summary judgment motions became fully briefed in September 2024. Dkt. 80 . "[T]he purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." Benisek v. Lamone, 138 S. Ct. 1942, 1945 (2018) (cleaned up). "A preliminary injunction is always appropriate to grant intermediate relief of the same character as that which may be granted finally." DeBeers Consol. Mines v. United States, 325 U.S. 212, 220 (1945). Because Mr. Howard seeks preliminary injunctive relief unrelated to the claims pending in this lawsuit, and against individuals who are not defendants in this lawsuit, his motion, dkt. 80 , is denied. If Mr. Howard wishes to pursue judicial relief regarding the allegations set out in his motion, he must file a new lawsuit after pursuing whatever administrative remedies are available. The court will rule on the parties' summary judgment motions in due course. Signed by District Judge Richard L Young on 11/26/2024. (AJG) (Entered: 11/26/2024)
11/29/2024	82	MOTION for Court Order, filed by Plaintiff DAVID HOWARD. (Attachments: # 1 Exhibit)(JRB) (Entered: 12/05/2024)
01/02/2025	83	ORDER - David Howard's motion for injunctive relief related to his confinement in segregation, dkt. 82 , is summarily denied. The court has made clear that Mr. Howard cannot pursue such relief in this lawsuit, which concerns his medical care. Signed by District Judge Richard L Young on 1/2/2025. (JRB) (Entered: 01/02/2025)
01/17/2025	84	ENTRY DENYING SUMMARY JUDGMENT MOTIONS - Miller's Motion for Partial Summary Judgment (Filing No. 55) is DENIED. Howard's Motion for Summary Judgment (Filing No. 60) is also DENIED. The court prefers that Howard be represented by counsel for the remainder of this action. To that end, the Clerk is DIRECTED to MAIL Howard a Motion for Assistance with Recruiting Counsel with his copy of this Entry. Howard has 30 days from the date of this Entry to file a motion for counsel using this form motion or to inform the court that he wishes to proceed pro se. Once the motion has been ruled on and counsel has been recruited, the Magistrate Judge is asked to schedule a telephonic status conference to discuss further proceedings. SEE ORDER. Signed by District Judge Richard L Young on 1/17/2025. (Attachments: # 1 Motion for Assistance with Recruiting Counsel Form) (JRB) (Entered: 01/17/2025)
01/28/2025	85	MOTION to Appoint Counsel, filed by Plaintiff DAVID HOWARD. (JSR) (Entered: 01/29/2025)
04/08/2025	86	RECEIPT #14940 for partial filing fee in the amount of \$2.50, paid by DAVID HOWARD. (DJH) (Entered: 04/08/2025)
04/30/2025	87	ORDER granting 85 Motion to Appoint Counsel. The court will attempt to recruit counsel to represent Mr. Howard through final judgment. Signed by District Judge Richard L Young on 4/30/2025. (TPS) (Entered: 04/30/2025)

Case #: 1:23-cv-00263-RLY-TAB