

*** PUBLIC DOCKET ***

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**U.S. District Court
Southern District of Indiana (Indianapolis)
CIVIL DOCKET FOR CASE #: 1:23-cv-00260-JRS-KMB**

RUSHING v. WILLIAM et al
Assigned to: Chief District Judge James Russell Sweeney, II
Referred to: Magistrate Judge Kellie M. Barr
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/09/2023
Jury Demand: Both
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff

JOSEPH A. RUSHING

represented by **JOSEPH A. RUSHING**
895997
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL
FACILITY - Inmate Mail/Parcels
1000 Van Nuys Road
NEW CASTLE, IN 47362
PRO SE

V.

Defendant

LOWE
Counselor's

represented by **Joseph Thomas Lipps**
BBFCS ATTORNEYS
27 North 8th Street
Richmond, IN 47374
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/09/2023	<u>1</u>	COMPLAINT against JASON CARTER, CENTURIUN MEDICAL, LOWE, LYNCH, PATRICIA WILLIAM, filed by JOSEPH A. RUSHING. (No fee paid with this filing) (Attachments: # <u>1</u> Exhibit, # <u>2</u> Envelope)(DRB) (Entered: 02/10/2023)
02/10/2023	<u>2</u>	Notice to File Rule 7.1 Disclosure Statement. (RAGS) (DRB) (Entered: 02/10/2023)
02/10/2023	<u>3</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DRB) (Entered: 02/10/2023)
02/15/2023	<u>4</u>	NOTICE OF DEFICIENCY - Your civil rights complaint has been received. You shall have through March 15, 2023, in which to correct the deficiencies as follows: You must either pay the 402.00 filing fee for this action or demonstrate that you lack the financial

		ability to do so by filing a motion for leave to proceed without the prepayment of the filing fee (<i>in forma pauperis</i>). A form motion for leave to proceed without the prepayment of the filing fee is being provided for your use. NOTE TO PRISONER - If you seek leave to proceed without prepaying the filing fee, and you are a prisoner, your motion must be accompanied by a copy of the transactions associated with your institution trust account for the 6-month period preceding the filing of this action. Copy to plaintiff by U.S. Mail. (Attachments: # <u>1</u> Form Motion for IFP) (MEH) (Entered: 02/15/2023)
03/01/2023	<u>5</u>	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. Copy to plaintiff by U.S. Mail. (MEH) (Entered: 03/01/2023)
03/15/2023	<u>6</u>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Envelope)(JDC) (Entered: 03/16/2023)
03/23/2023	<u>7</u>	ORDER granting <u>6</u> Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff is assessed an initial partial filing fee of Eighteen Dollars and Sixty-Four Cents (\$18.64). The plaintiff shall have through April 20, 2023, in which to pay this sum to the clerk of the district court. Copy to plaintiff via US Mail. Signed by Judge James R. Sweeney II on 3/23/2023. (KAA) (Entered: 03/23/2023)
04/18/2023	<u>8</u>	RECEIPT #4817 for filing fee in the amount of \$18.64, paid by JOSEPH A. RUSHING. (DRB) (Entered: 04/18/2023)
04/28/2023	<u>9</u>	ORDER Directing Monthly Payments be made from Prison Account of JOSEPH A. RUSHING. Copy to Plaintiff and Warden via US Mail. Copy to Finance Department via Email. Signed by Magistrate Judge Kellie M. Barr on 4/28/2023.(SWM) (Entered: 05/01/2023)
05/08/2023	<u>10</u>	MOTION Requesting Status of Case, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Envelope)(AAS) (Entered: 05/09/2023)
05/11/2023	<u>11</u>	ENTRY - Plaintiff Joseph Rushing has filed a motion requesting the status of his case. Dkt. 10. Mr. Rushing's motion, dkt. [<u>10</u>], is granted to the extent that the Court informs him that his initial partial filing fee has been received and the Court will screen his complaint pursuant to 28 U.S.C. § 1915A in due course. The clerk is directed to send Mr. Rushing a copy of the docket along with a copy of this order. Copies to Plaintiff via US Mail. Signed by Magistrate Judge Kellie M. Barr on 5/11/2023. (SWM) (Entered: 05/11/2023)
06/08/2023	<u>12</u>	Order Screening Complaint and Directing Further Proceedings: The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendants Centurion, Dr. Jason Carter, Practitioner Patricia William, Counselor Lowe, and Counselor Lynch in the manner specified by Rule 4(d). Process shall consist of the complaint filed on February 9, 2023, dkt. <u>1</u> , 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 Centurion and its employees electronically. Defendants Dr. Jason Carter and Practitioner Patricia William are identified as employees of Centurion. A copy of this Order and the process documents shall also be served on Centurion electronically. Centurion is ORDERED to provide the full name and last known home address of any defendant who does not waive service if they have such information. This information may be provided to the Court informally or may be filed ex parte. See Order. Signed by Judge James R. Sweeney II on 6/8/2023.(Copies sent per Distribution list.) (Attachments: # <u>1</u> Complaint) (LF) (Entered: 06/08/2023)
06/08/2023	<u>13</u>	NOTICE OF LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS Issued by Clerk to 1) Centurion; 2) Dr. Jason Carter; 3) Practitioner Patricia William; 4) Counselor Lowe; and 5) Counselor Lynch. (LF) (Entered: 06/08/2023)

06/08/2023	<u>14</u>	Documents to be Sent via Electronic Notice - re <u>1</u> Complaint, <u>12</u> Order, <u>13</u> NOTICE of Lawsuit & Waiver Issued by Clerk Electronic Notice to Centurion, Dr. Jason Carter, Practitioner Patricia William. (LF) (Entered: 06/08/2023)
06/23/2023	<u>15</u>	NOTICE of Appearance by Austin Ryan Andreas on behalf of Defendants JASON CARTER, CENTURIUN MEDICAL. (Andreas, Austin) (Entered: 06/23/2023)
06/23/2023	<u>16</u>	Rule 7.1 Disclosure Statement by CENTURIUN MEDICAL identifying Corporate Parent MHM SERVICES, INC., Corporate Parent CENTURION, LLC, Corporate Parent Centurion Equity, Inc. for CENTURIUN MEDICAL.. (Andreas, Austin) (Entered: 06/23/2023)
06/23/2023	<u>17</u>	WAIVER OF SERVICE Returned Executed, filed by CENTURIUN MEDICAL, JASON CARTER. CENTURIUN MEDICAL waiver sent on 6/8/2023; JASON CARTER waiver sent on 6/8/2023. (Andreas, Austin) (Entered: 06/23/2023)
06/23/2023	<u>18</u>	NOTICE of Appearance by Jeb Adam Crandall on behalf of Defendants JASON CARTER, CENTURIUN MEDICAL. (Crandall, Jeb) (Entered: 06/23/2023)
07/10/2023	<u>19</u>	RECEIPT #6000 for Partial Filing fee in the amount of \$36.00, paid by JOSEPH A. RUSHING. (CCG) (Entered: 07/10/2023)
07/17/2023	<u>20</u>	ENTRY DIRECTING SERVICE OF PROCESS - The Court screened the Plaintiff's complaint and issued process on June 8, 2023, but the Defendants have not returned a waiver of service. Dkts. <u>12</u> , <u>13</u> . The Clerk is designated to reissue process to defendant Practitioner Patricia William, Counselor Lowe, and Counselor Lynch. Process shall consist of the complaint, dkt. <u>1</u> , screening order, dkt. <u>12</u> , applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry. Copies mailed per distribution. Signed by Magistrate Judge Kellie M. Barr on 7/17/2023.(KAA) (Entered: 07/17/2023)
07/17/2023	<u>21</u>	NOTICE of Lawsuit & Waiver Issued by Clerk upon: 1) Practitioner Patricia William; 2) Counselor Lowe; and 3) Counselor Lynch. (KAA) (Entered: 07/17/2023)
07/17/2023	<u>22</u>	Documents to be Sent via Electronic Notice - re <u>1</u> Complaint, <u>21</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>12</u> Order, <u>20</u> Entry Electronic Notice to Centurion. (KAA) (Entered: 07/17/2023)
07/20/2023	<u>23</u>	ANSWER to <u>1</u> Complaint , filed by JASON CARTER, CENTURIUN MEDICAL. (Andreas, Austin) (Entered: 07/20/2023)
08/04/2023	<u>24</u>	Mail Returned as undeliverable - RTS. <u>1</u> Complaint, <u>21</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>12</u> Order, <u>20</u> Entry sent to LYNCH. (KAA) (Entered: 08/04/2023)
08/07/2023	<u>25</u>	NOTICE of Appearance by Joseph Thomas Lipps on behalf of Defendant LOWE. (Lipps, Joseph) (Entered: 08/07/2023)
08/07/2023	<u>26</u>	WAIVER OF SERVICE Returned Executed, filed by LOWE. LOWE waiver sent on 6/8/2023. (Lipps, Joseph) (Entered: 08/07/2023)
08/07/2023	<u>27</u>	ANSWER to <u>1</u> Complaint , filed by LOWE.(Lipps, Joseph) (Entered: 08/07/2023)
08/17/2023	<u>28</u>	ENTRY DIRECTING SERVICE OF PROCESS AND DIRECTING FUTHER RESPONSE: The Clerk is designated pursuant to Fed. R. Civ. P. 4(c)(3) to reissue process to Counselor Lynch and Practitioner Patricia William. Process shall consist of the complaint, dkt. <u>1</u> , screening order, dkt. <u>12</u> , applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry. Additionally, counsel for the co-Defendants is directed to file the last known address for Defendants Counselor Lynch and Practitioner Patricia William within 14 days of the

		date of this Order. Alternatively, counsel may notify the Court that this information is unknown. This information may be provided to the Court informally or may be filed ex parte. See Order. Signed by Magistrate Judge Kellie M. Barr on 8/17/2023.(Copies mailed per Distribution list.) (LF) (Entered: 08/17/2023)
08/17/2023	<u>29</u>	NOTICE OF LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS Issued by Clerk to 1) Practitioner Patricia William and 2) Counselor Lynch. (LF) (Entered: 08/17/2023)
08/17/2023	<u>30</u>	Documents to be Sent via Electronic Notice - re <u>29</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>1</u> Complaint, <u>12</u> Order, <u>28</u> Entry Electronic Notice to Centurion. (LF) (Entered: 08/17/2023)
08/21/2023	<u>32</u>	NOTICE of Party Information, filed by Defendants JASON CARTER, CENTURIUN MEDICAL, re <u>28</u> Entry. (Andreas, Austin) (Entered: 08/21/2023)
08/28/2023	<u>33</u>	MOTION for Independent Medical Professional to take Photos, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Envelope)(LF) (Entered: 08/29/2023)
08/30/2023	34	RECEIPT #6697 for partial filing fee in the amount of \$24.00, paid by JOSEPH RUSHING. (DJH) (Entered: 08/31/2023)
08/30/2023	<u>35</u>	ORDER - The Court is in receipt of the defendants' response to the Court's Order directing them to provide contact information for defendants Counselor Lynch and Patricia William. Dkts. <u>31</u> , <u>32</u> . The Court received updated contact information for Counselor Jack Lynch. Dkt. <u>31</u> . However, the defendants informed the Court that Practitioner Patricia William's contact information is unknown. Dkts. <u>31</u> , <u>32</u> . The Court has also been unable to locate contact information to obtain service for Practitioner Patricia William. Accordingly, plaintiff Joseph Rushing is directed to file any identifying information regarding Practitioner Patricia William that he may have by September 15, 2023. Mr. Rushing is notified that if this Practitioner Patricia William cannot be ascertained, the Court may dismiss her from this lawsuit. The Clerk is directed to resend dkts. <u>1</u> , <u>12</u> , <u>28</u> , and <u>29</u> to Counselor Jack Lynch. The clerk is also directed to update defendant Counselor Lynch to Counselor Jack Lynch on the docket. Finally, the clerk is directed to update defendant Lynch's address on the docket consistent with the distribution order. Copy to Defendant via U.S. Mail. Signed by Magistrate Judge Kellie M. Barr on 8/30/2023. (Attachments: # <u>1</u> Dkt. 1, 12, 28, and 29) (CW) (Entered: 08/31/2023)
09/01/2023	<u>36</u>	RESPONSE in Opposition re <u>33</u> MOTION <i>Requesting Court Appointed Independent Expert</i> , filed by Defendants JASON CARTER, CENTURIUN MEDICAL. (Attachments: # <u>1</u> Text of Proposed Order Denying Plaintiff's Request)(Andreas, Austin) (Entered: 09/01/2023)
09/26/2023	37	RECEIPT #7058 for partial filing fee in the amount of \$8.00, paid by JOSEPH RUSHING. (DJH) (Entered: 09/26/2023)
09/28/2023	<u>38</u>	ENTRY DIRECTING DEVELOPMENT OF EXHAUSTION DEFENSE AND ISSUING PARTIAL STAY: The defendants, Jason Carter, Centurion Medical, and Lowe have asserted the affirmative defense that the plaintiff failed to exhaust his administrative remedies prior to filing this lawsuit as required by the Prison Litigation Reform Act. This defense must be resolved before reaching the merits of this case. See Pavey v. Conley, 544 F.3d 739, 742 (7th Cir. 2008); Perez v. Wis. Dep't of Corr., 182 F.3d 532, 536 (7th Cir. 1999). The exhaustion defense will be resolved pursuant to the following schedule. The defendants shall have through November 9, 2023, in which to either: SEE ORDER. Signed by Magistrate Judge Kellie M. Barr on 9/28/2023.(Copies mailed per Distribution list.) (LF) (Entered: 09/28/2023)

09/29/2023	<u>39</u>	ORDER Directing the Clerk to Terminate Defendant - Accordingly, the clerk is directed to terminate Patricia William as a defendant on the docket (SEE ORDER FOR DETAILS). Signed by Judge James R. Sweeney II on 9/29/2023. Copies distributed pursuant to distribution list. (DWH) (Entered: 09/29/2023)
10/12/2023	<u>40</u>	RECEIPT #7319 for Partial Filing fee in the amount of \$1.69, paid by JOSEPH A. RUSHING. (CCG) (Entered: 10/12/2023)
10/20/2023	<u>41</u>	MOTION to Call Expert Witness, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Envelope)(KAA) (Entered: 10/23/2023)
10/24/2023	<u>42</u>	Entry Directing Issuance and Service of Summons - The clerk is designated to re-issue process to Defendant Jack Lynch. Process shall consist of a summons. The Marshal for this District or his Deputy shall serve the summons, together with a copy of the complaint, dkt. <u>1</u> ; a copy of the screening order, dkt. <u>12</u> ; and a copy of this Entry, on Defendant Lynch, at the expense of the United States. The Marshal is notified that the Court and Plaintiff do not know where Defendant Lynch can be served. Attempts to serve Defendant Lynch at his last home known address may be made by certified mail. Accordingly, the Marshal or his Deputy is required to use the Marshal services' available resources to track down and serve Defendant Lynch. Copies mailed per Distribution. Signed by Judge James R. Sweeney II on 10/24/2023.(KAA) (Entered: 10/24/2023)
10/24/2023	<u>43</u>	Summons Issued as to JACK LYNCH. (Attachments: # <u>1</u> USM 285 Form)(KAA) (Entered: 10/24/2023)
10/24/2023	<u>44</u>	Documents for service by USM - re <u>42</u> Entry, <u>43</u> Summons Issued, <u>1</u> Complaint, <u>12</u> Order. Electronic notice to USM-C.(KAA) (Entered: 10/24/2023)
10/31/2023	<u>45</u>	Order on Pending Motions - The motions, dkt. <u>33</u> and <u>41</u> , are denied without prejudice. At this point, the case is stayed as to all matters but the exhaustion defense asserted by Defendants Carter, Lowe, and Centurion. SEE ORDER. Copy sent to distribution list via US Mail. Signed by Judge James R. Sweeney II on 10/31/2023. (JRB) (Entered: 10/31/2023)
11/08/2023	<u>46</u>	MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendants JASON CARTER, CENTURIUN MEDICAL. (Attachments: # <u>1</u> Exhibit A - Affidavit with Exhibits A1-A13, # <u>2</u> Text of Proposed Order)(Andreas, Austin) (Entered: 11/08/2023)
11/08/2023	<u>47</u>	BRIEF/MEMORANDUM in Support re <u>46</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendants JASON CARTER, CENTURIUN MEDICAL. (Andreas, Austin) (Entered: 11/08/2023)
11/08/2023	<u>48</u>	NOTICE <i>Regarding Plaintiff's Right to Respond</i> , filed by Defendants JASON CARTER, CENTURIUN MEDICAL, re <u>46</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) . (Andreas, Austin) (Entered: 11/08/2023)
11/14/2023	<u>49</u>	RECEIPT #7760 for Partial Filing fee in the amount of \$22.00, paid by JOSEPH A. RUSHING. (CCG) (Entered: 11/14/2023)
11/22/2023	<u>50</u>	RETURN of USM Service re <u>44</u> Documents for service by USM by JOSEPH A. RUSHING. JACK LYNCH served on 11/22/2023. USMS note: Served on his wife, Sabre Lynch. She said leave at the door. (JSR) (Entered: 11/27/2023)
12/05/2023	<u>51</u>	NOTICE of Appearance by Joseph Thomas Lipps on behalf of Defendant JACK LYNCH. (Lipps, Joseph) (Entered: 12/05/2023)
12/05/2023	<u>52</u>	ANSWER to <u>1</u> Complaint , filed by JACK LYNCH.(Lipps, Joseph) (Entered: 12/05/2023)

12/07/2023	<u>53</u>	Entry Directing Development of Exhaustion Defense and Issuing Partial Stay - Mr. Lynch's exhaustion defense will be resolved pursuant to the following schedule. Mr. Lynch shall have through January 17, 2024, in which to either: SEE ORDER. The failure to pursue any of these options by the above deadline constitutes an abandonment of the exhaustion defense. Copy to plaintiff via US Mail. Signed by Magistrate Judge Kellie M. Barr on 12/7/2023.(KAA) (Entered: 12/07/2023)
12/07/2023	54	RECEIPT #8099 for partial filing fee in the amount of \$34.40, paid by JOSEPH RUSHING. (DJH) (Entered: 12/07/2023)
12/18/2023	<u>55</u>	MOTION to Compel, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Envelope)(LF) (Entered: 12/20/2023)
12/22/2023	<u>56</u>	ORDER Denying Motion Requesting Order to Comply with Specialist's Prescribed Treatment - Mr. Rushing's motion requesting an order requiring Centurion to follow the specialist's recommended treatment plan, construed as a motion for preliminary injunction, dkt. [<u>55</u>], is denied without prejudice. The Court notes that defendants Carter and Centurion have filed a motion for summary judgment contending that Mr. Rushing failed to exhaust his administrative remedies before filing this lawsuit. Dkt. <u>46</u> . The Court sua sponte extends Mr. Rushing's deadline to respond to that motion up to and including January 19, 2024. The clerk is directed to update the docket to reflect that the proper name of the defendant identified as "Centuriun Medical" is "Centurion Health of Indiana, LLC". See Order for additional information. Copy to Plaintiff via US Mail. Signed by Judge James R. Sweeney II on 12/22/2023. (SWM) (Entered: 12/22/2023)
12/27/2023	<u>57</u>	Correspondence REQUESTING COPY of Case Docket and Document re <u>53</u> Entry, filed by JOSEPH A. RUSHING. Copies provided to Plaintiff via US Mail. (Attachments: # <u>1</u> Envelope, # <u>2</u> Public Docket Sheet, # <u>3</u> Dkt. 53) (JSR) (Entered: 12/28/2023)
01/08/2024	<u>58</u>	MOTION to Compel Compliance, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Exhibits, # <u>2</u> Envelope) (JSR) (Entered: 01/09/2024)
01/10/2024	<u>59</u>	Order Denying <u>58</u> Second Motion Requesting Order to Comply with Specialist's Prescribed Treatment - The motion, dkt. <u>58</u> , is denied for the same reasons stated in the Court's Order of December 22, 2023. See dkt. <u>56</u> .The clerk is directed to enclose a copy of the December 22 Order, dkt. <u>56</u> , with Plaintiff's Copy of this Order. Copy to Plaintiff via US Mail. Signed by Judge James R. Sweeney II on 01/10/2024. (Attachments: # <u>1</u> Dkt. <u>56</u>) (AAS) (Entered: 01/11/2024)
01/10/2024	60	RECEIPT #8571 for partial filing fee in the amount of \$10.00, paid by JOSEPH RUSHING. (DJH) (Entered: 01/11/2024)
01/17/2024	<u>61</u>	MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant JACK LYNCH. (Attachments: # <u>1</u> Text of Proposed Order)(Lipps, Joseph) (Entered: 01/17/2024)
01/17/2024	<u>62</u>	BRIEF/MEMORANDUM in Support re <u>61</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant JACK LYNCH. (Lipps, Joseph) (Entered: 01/17/2024)
01/17/2024	<u>63</u>	Designation of Evidence re <u>62</u> Brief/Memorandum in Support, <u>61</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant JACK LYNCH. (Attachments: # <u>1</u> Exhibit A- Affidavit of Melissa Rutledge, # <u>2</u> Exhibit B-Offender Grievance Process, State of Indiana, Indiana Department of Correction, Policy and Administrative Procedure No. 00-02-301, # <u>3</u> Exhibit C- Offender Grievances, # <u>4</u> Exhibit D- Grievances History for Offender, Joseph Rushing)(Lipps, Joseph) (Entered: 01/17/2024)

01/17/2024	<u>64</u>	NOTICE <i>Regarding Right to Respond to and Submit Evidence in Opposition to Motion for Summary Judgment</i> , filed by Defendant JACK LYNCH, re <u>63</u> Designation of Evidence, <u>62</u> Brief/Memorandum in Support, <u>61</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) . (Lipps, Joseph) (Entered: 01/17/2024)
02/09/2024	<u>65</u>	RECEIPT #8964 for partial filing fee in the amount of \$30.40, paid by JOSEPH RUSHING. (DJH) (Entered: 02/09/2024)
03/21/2024	<u>66</u>	MOTION Requesting Status of Case, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Envelope) (JSR) (Entered: 03/22/2024)
03/25/2024	<u>67</u>	RECEIPT #9620 for Partial Filing fee in the amount of \$47.60, paid by JOSEPH A. RUSHING. (CCG) (Entered: 03/25/2024)
04/25/2024	<u>68</u>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by JOSEPH A. RUSHING. Copy/Copies provided via US Mail. (Attachments: # <u>1</u> Public Docket Sheet, # <u>2</u> Envelope) (KAA) (Entered: 04/26/2024)
05/01/2024	<u>69</u>	ORDER: Plaintiff's motion requesting a status update for this case, dkt. <u>66</u> , is granted to the extent that the Court explains that Defendants Carter and Centurion and Defendant Lynch have filed motions for summary judgment on the issue of administrative exhaustion. Dkts. 46, 61. Plaintiff did not timely respond to either motion, so the Court considers them ripe for resolution. The clerk is directed to enclose a public docket sheet with Plaintiff's copy of this Order so that he may confirm that he has received all filings. See Order. Signed by Magistrate Judge Kellie M. Barr on 5/1/2024.(Copy mailed to Plaintiff.) (Attachments: # <u>1</u> Public Docket sheet) (LF) (Entered: 05/02/2024)
05/23/2024	<u>70</u>	MOTION for Reconsideration of <u>69</u> on time to Respond to Motion for Summary Judgment, filed by Plaintiff JOSEPH A. RUSHING. (Attachments: # <u>1</u> Envelope)(AAT) (Entered: 05/24/2024)
06/04/2024	<u>71</u>	ORDER - Plaintiff Joseph A. Rushing states under penalties of perjury that he did not receive the defendants' motions for summary judgment. Dkt. <u>70</u> at 2. He requests the opportunity to review and respond to those motions. Mr. Rushing's motion, dkt. <u>70</u> , is granted consistent with the following. The clerk is directed to re-docket Carter and Centurion Health of Indiana, LLC's, motion for summary judgment and attachments, dkt. <u>46</u> , brief/memorandum in support, dkt. <u>47</u> , and notice, dkt. <u>48</u> . The motion flag at docket number <u>46</u> shall be terminated. The clerk is further directed to re-docket Jack Lynch's motion for summary judgment, dkt. <u>61</u> , brief in support, dkt. <u>62</u> , designation of evidence, dkt. <u>63</u> , and notice, dkt. <u>64</u> . The motion flag at docket number <u>61</u> shall be terminated. Mr. Rushing shall have 28 days from the date this Order is docketed to file his response(s) to the motions for summary judgment. The clerk is directed to include copy of the motions for summary judgment and briefing totaling 135 pages along with Mr. Rushing's copy of this Order. The copies may be reproduced double-sided. SEE ORDER. Copy to Plaintiff via US Mail. Signed by Judge James R. Sweeney II on 06/04/2024. (AAS) (Entered: 06/05/2024)
06/04/2024	<u>72</u>	MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), filed by Defendants JASON CARTER, CENTURION HEALTH OF INDIANA LLC. (Attachments: # <u>1</u> Exhibit A - Affidavit with Exhibits A1-A13, # <u>2</u> Text of Proposed Order) (AAS) Filed per Dkt. <u>71</u> - Copy to Plaintiff via US Mail. (Entered: 06/05/2024)
06/04/2024	<u>73</u>	BRIEF/MEMORANDUM in Support re <u>72</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), filed by Defendants JASON CARTER, CENTURION HEALTH OF INDIANA LLC. Filed per Dkt. <u>71</u> - Copies to Plaintiff via US Mail. (AAS) (Entered: 06/05/2024)

06/04/2024	<u>74</u>	NOTICE REGARDING PLAINTIFF'S RIGHT TO RESPOND TO AND SUBMIT EVIDENCE IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, filed by Defendants JASON CARTER, CENTURION HEALTH OF INDIANA LLC. File per Dkt. <u>71</u> . Copy to Plaintiff via US Mail. (AAS) (Entered: 06/05/2024)
06/04/2024	<u>75</u>	MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), filed by Defendant JACK LYNCH. Filed per Dkt. <u>71</u> . Copy to Plaintiff via US Mail. (Attachments: # <u>1</u> Text of Proposed Order)(AAS) (Entered: 06/05/2024)
06/04/2024	<u>76</u>	BRIEF/MEMORANDUM in Support re <u>75</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), filed by Defendant JACK LYNCH. (AAS) (Entered: 06/05/2024)
06/04/2024	<u>77</u>	Designation of Evidence re <u>75</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), <u>76</u> Brief/Memorandum in Support, filed by Defendant JACK LYNCH. Filed per Dkt. <u>71</u> . Copy to Plaintiff via US Mail. (Attachments: # <u>1</u> Exhibit A Affidavit of Melissa Rutledge, # <u>2</u> Exhibit B Offender of Grievance Process State of Indiana IDOC, # <u>3</u> Exhibit C Offender Grievances, # <u>4</u> Exhibit D Grievance History for Offender Joseph Rushing)(AAS) (Entered: 06/05/2024)
06/04/2024	<u>78</u>	NOTICE REGARDING RIGHT TO RESPOND TO AND SUBMIT EVIDENCE IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, filed by Defendant JACK LYNCH, re <u>75</u> MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>), <u>76</u> Brief/Memorandum in Support, <u>77</u> Designation of Evidence. Filed per Dkt. <u>71</u> . Copy to Plaintiff via US Mail. (AAS) (Entered: 06/05/2024)
06/07/2024	79	RECEIPT #10688 for partial filing fee in the amount of \$34.00, paid by JOSEPH RUSHING. (DJH) (Entered: 06/07/2024)
06/10/2024	80	RECEIPT #10689 for partial filing fee in the amount of \$2.00, paid by JOSEPH RUSHING. (DJH) (Entered: 06/10/2024)
07/09/2024	<u>81</u>	MOTION to Withdraw Attorney Appearance of <i>Austin R. Andreas</i> , filed by Defendants JASON CARTER, CENTURION HEALTH OF INDIANA LLC. (Attachments: # <u>1</u> Text of Proposed Order)(Andreas, Austin) (Entered: 07/09/2024)
07/09/2024	82	RECEIPT #11157 for partial filing fee in the amount of \$20.00, paid by JOSEPH A. RUSHING. (DJH) (Entered: 07/09/2024)
07/16/2024	<u>83</u>	ORDER granting <u>81</u> Motion to Withdraw Attorney Appearance. Attorney Austin Ryan Andreas withdrawn. SEE ORDER. Copy sent to Plaintiff via US Mail. Signed by Magistrate Judge Kellie M. Barr on 7/16/2024. (JRB) (Entered: 07/17/2024)
08/06/2024	84	RECEIPT #11533 for partial filing fee in the amount of \$25.00, paid by JOSEPH RUSHING. (DJH) (Entered: 08/06/2024)
10/08/2024	85	RECEIPT #12462 for partial filing fee in the amount of \$25.00, paid by JOSEPH RUSHING. (DJH) (Entered: 10/08/2024)
10/28/2024	<u>86</u>	NOTICE regarding Notice of Deficiency, filed by Plaintiff JOSEPH A. RUSHING (Attachments: # <u>1</u> Envelope) (LF) (Entered: 10/30/2024)
12/10/2024	87	RECEIPT #13300 for partial filing fee in the amount of \$11.27, paid by JOSEPH A. RUSHING. (DJH) (Entered: 12/10/2024)
12/11/2024	<u>88</u>	ORDER PROVIDING NOTICE OF SATISFACTION OF FILING FEE - SEE ORDER. Electronic Notice to Finance. Copy sent to distribution list via US Mail. Signed by Judge James R. Sweeney II on 12/11/2024.(JRB) (Entered: 12/12/2024)

03/21/2025	<u>89</u>	ENTRY Granting Unopposed Motions for Summary Judgment - Both the Medical Defendants and Counselor Lynch move for summary judgment, arguing that Mr. Rushing failed to exhaust his available administrative remedies as required by the Prison Litigation Reform Act before filing this lawsuit, dkt. <u>72</u> and <u>75</u> . Counselor Lynch's and the Medical Defendants' unopposed motions for summary judgment, dkt. <u>72</u> and <u>75</u> , are GRANTED. The claims against Defendants Lynch, Carter, and Centurion are DISMISSED WITHOUT PREJUDICE, and the clerk is directed to terminate them as defendants on the docket. Because Mr. Rushing's claims against Counselor Lowe are proceeding to the merits, see dkt. <u>71</u> , no final judgment will enter at this time. Signed by Judge James R. Sweeney II on 3/21/2025. (See Order.) Copy mailed to Plaintiff. (BAA) (Entered: 03/21/2025)
03/31/2025	<u>90</u>	TRIAL SETTING AND NOTICE OF FINAL PRETRIAL CONFERENCE: This cause is hereby set for a Jury Trial before Judge James R. Sweeney II on November 12, 2025 at 9:00 a.m. (ET) in Room 307 of the Birch Bayh Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana. A Final Pretrial Conference is also set for October 23, 2025 at 9:00 a.m. (ET) in Room 307 of the Birch Bayh Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana. Signed by Judge James R. Sweeney II on 3/31/2025.(Copy to Plaintiff via US Mail.) (LF) (Entered: 04/01/2025)
04/15/2025	<u>91</u>	ENTRY - The Final Pretrial Conference is RESET for 2/19/2026 at 9:00 AM (Eastern Time) in room #307, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge James R. Sweeney II. The Jury Trial is RESET for 3/9/2026 at 9:00 AM (Eastern Time) in room #307, United States Courthouse, 46 E. Ohio Street, Indianapolis, Indiana before Judge James R. Sweeney II. (See Order.) Signed by Judge James R. Sweeney II on 4/15/2025. Copy to Plaintiff via US mail. (JSR) (Entered: 04/16/2025)
08/22/2025	<u>92</u>	Entry Directing Plaintiff to Move for Assistance in Recruiting Counsel - The clerk is directed to send Mr. Rushing a motion for assistance recruiting counsel with his copy of this Order. Mr. Rushing has through September 12, 2025, to file a motion for counsel using this form motion or to inform the Court that he wishes to proceed pro se. SEE ORDER. Copy sent to Plaintiff via US Mail. Signed by Chief District Judge James Russell Sweeney, II on 8/22/2025. (Attachments: # <u>1</u> Motion for Assistance with Recruiting Counsel Form) (JRB) (Entered: 08/25/2025)
09/08/2025	<u>93</u>	MOTION for Assistance with Recruiting Counsel, filed by Plaintiff JOSEPH A. RUSHING. (JRB) (Entered: 09/08/2025)
09/10/2025	<u>94</u>	ORDER granting <u>93</u> Motion to Appoint Counsel - The plaintiff's motion for assistance with recruiting counsel, dkt. <u>93</u> , is granted. The Court will attempt to recruit counsel to represent the plaintiff for the remainder of this case. He will be notified when this step has been taken. Copy to Plaintiff via US mail. Signed by Chief District Judge James Russell Sweeney, II on 09/10/2025. (AJG) (Entered: 09/10/2025)

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