

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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INJAH TAFARI,

Petitioner,

v.

9:10-CV-00790  
(DNH)

DAVID A. ROCK,

Respondent.

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APPEARANCES

INJAH TAFARI, 89-A-4807  
Petitioner, *pro se*  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, New York 12953

DAVID N. HURD  
United States District Judge

**ORDER**

Petitioner Injah Tafari (“Tafari” or “petitioner”) has filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, a memorandum of law (“Mem.”) and an application to proceed *in forma pauperis*. See Dkt. No. 1-2. Petitioner is currently confined at Upstate Correctional Facility and has not paid the required filing fee.

In his petition, Tafari appears to be challenging ten separate prison misbehavior reports and the ensuing superintendent and disciplinary hearings held at the Eastern Correctional Facility between February 15, 2005, and March 30, 2006. See Dkt. No. 1 at 1; Mem. at 2-3. Petitioner states, generally, that he was denied due process during the hearings because the hearing officers: (1) accepted inmate witness refusal forms without personally interviewing the witnesses; (2) denied petitioner’s request to call witnesses; and (3) accepted petitioner’s refusal to attend the hearings without advising

him of the consequences. Petitioner also claims that his employee assistant failed to locate potential witnesses. Dkt. No. 1 at 2. In his memorandum of law, petitioner provides the names of the inmate witnesses he wanted to call at each challenged hearing, explains that the witnesses declined to testify, and argues that the hearing officers should not have simply accepted the statements of the witnesses that they did not want to be involved. Mem. at 1-4. Petitioner does not allege a loss of good time credits associated with any of these challenged hearings. Instead, he states that the hearings resulted in a “total of two (2) years special housing unit confinement, 30 days keep lock confinement with loss of commissary, packages, and phone calls.” Dkt. No. 1 at 1.

Petitioner previously raised the majority of his current due process claims (See Mem. at 2-3, identifying misbehavior reports labeled (a) through (l), dated February 15, 2005; March 1, 2005; March 2, 2005; June 10, 2005; June 27, 2005; October 11, 2005; October 12, 2005; and October 16, 2005) in an action brought in this Court pursuant to 42 U.S.C. § 1983. See Tafari v. McCarthy, et al., No. 9:07-CV-654, Dkt. No. 1 (Complaint) at 16-19. In a Report-Recommendation issued March 31, 2010, Magistrate Judge George H. Lowe recommended that these claims be dismissed because they were barred under Heck v. Humphrey, 512 U.S. 477 (1994) and Peralta v. Vasquez, 467 F.3d 98, 100 (2d Cir. 2006), and in the alternative, that petitioner failed to raise a triable issue of fact regarding these due process claims. See Dkt. No. 96 at 61-87. The Report-Recommendation was adopted in a Decision and Order dated May 24, 2010. Dkt. No. 100. Several claims raised in the section 1983 action remain pending. *Id.* at 6-7.

On April 27, 2010, Tafari also filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which he challenged the same December 17, 2005, misbehavior report and subsequent disciplinary hearing that he now challenges in this action. See *Tafari v. Superintendent*, 9:10-CV-00505 (FJS), Dkt. Nos. 1, 2. That case is also currently pending.

Since the majority of petitioner's due process claims raised in this petition were previously raised and rejected on both procedural grounds and on the merits in petitioner's pending section 1983 action, and his challenge to the disciplinary hearing surrounding the December 17, 2005, misbehavior report is the subject of his currently pending, separate section 2254 action, this petition is dismissed. To the extent that Tafari wants to challenge a prison disciplinary proceeding that resulted in the loss of good time credits that he has *not* previously challenged, he may do so in a separate section 2254 action.

THEREFORE, it is

ORDERED, that:

1. The petition (Dkt. No. 1) is DISMISSED in its entirety;
2. Petitioner's motion to proceed *in forma pauperis* (Dkt. No. 2) is DENIED as moot; and
3. The Clerk of the Court is directed to serve a copy of this Order on petitioner in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: July 13, 2010  
Utica, New York.

  
United States District Judge

