

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-3237

Billy Scales,

Plaintiff – Appellant,

v.

Marva Davis, Special Administrator,
individually and in official capacity;
Randy Manus, Assistant Warden, Pine
Bluff Unit, ADC, individually and in
official capacity; Mark Taylor,
Supervisor of Work Release Program,
Pine Bluff Unit, ADC, individually
and in official capacity; Marvin
Evans, Warden, Pine Bluff Unit,
in official capacity,

Defendants – Appellees.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
Eastern District of Arkansas.

[UNPUBLISHED]

Submitted: April 16, 2010
Filed: May 3, 2010

Before WOLLMAN, MURPHY, and SHEPHERD, Circuit Judges.

PER CURIAM.

Billy Scales filed this action against officials of the Arkansas Department of Correction pursuant to 42 U.S.C. § 1983, charging them with violating his constitutional right to due process by removing him from a work release program without a hearing and then transferring him to another prison unit after he filed a grievance about the incident. The district court¹ granted summary judgment to the officials.

After careful de novo review, see Carraher v. Target Corp., 503 F.3d 714, 716 (8th Cir. 2007), we agree in all respects with the well reasoned opinion of the magistrate judge. Scales had no constitutionally cognizable liberty interest in remaining in the work release program, for he was incarcerated at the time and his removal did not amount to an atypical condition of confinement or lengthen his imprisonment. See Callender v. Sioux City Residential Treatment Facility, 88 F.3d 666, 668–69 (8th Cir. 1996). Nor could he assert a protectable liberty interest in having the ADC officials follow their own regulations or policies. See Phillips v. Norris, 320 F.3d 844, 847 (8th Cir. 2003). Furthermore, since Scales has produced no evidence identifying any official responsible for his transfer, his retaliation claim fails as a matter of law. See Atkinson v. Bohn, 91 F.3d 1127, 1129 (8th Cir. 1996).

Accordingly, the judgment of the district court is affirmed. See 8th Cir. R. 47B.

¹The Honorable Henry L. Jones, Jr., United States Magistrate Judge for the Eastern District of Arkansas, presiding.