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Northeast Ohio Correctional Center in retaliation for seeking administrative remedy. [[Doc. 3-1 at 4-5.](#)] On October 18, 2009, Judge Peter C. Economus dismissed the Plaintiff's claims against Defendants Sniezek and John Does, leaving only Zuluaga's claims against Defendant Quinn in his individual capacity. [[Doc. 5.](#)]

On June 11, 2010, Quinn filed for summary judgment. Quinn claims that Zuluaga failed to exhaust his prison administrative remedies under the Prison Litigation Reform Act. [42 U.S.C. § 1997e\(a\)](#). Zuluaga responds that the Defendants' actions caused this failure to exhaust administrative remedies and that imposing the Act's exhaustion requirement would be futile. [[Doc. 27.](#)] Specifically, Zuluaga says that his access to administrative remedies was denied when the Defendants told him to wait to request an administrative grievance form and when they transferred the Plaintiff to another prison facility.

In her Report and Recommendation, the Magistrate Judge found that Zuluaga has not presented evidence raising a genuine issue of material fact as to the unavailability of administrative remedies. In addition, the Magistrate Judge noted that Supreme Court precedent precludes alleging futility as an exception to the exhaustion requirement. [[Doc. 39.](#)] [Booth v. Churner, 532 U.S. 731, 741 \(2001\)](#).

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.* Failure to object within this time waives a party's right to appeal the magistrate judge's recommendation. [FED. R. CIV. P. 72\(a\)](#); *see also* [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#); [United States v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Absent objection, a

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district court may adopt the Magistrate's report without review. *See [Thomas, 474 U.S. at 149](#).*

Moreover, having conducted its own review of the parties' briefs on the issue, the Court agrees with the conclusions of the Magistrate Judge.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Pearson's findings of fact and conclusions of law and incorporates them fully herein by reference. The Court thus **GRANTS** Defendant Quinn's motion for summary judgment.

IT IS SO ORDERED.

Dated: November 16, 2010

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE