

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RAMON LOPEZ,

Plaintiff,

v.

Civ. No. 08CV152 (WWE)

AL ESPOSITO, STEVEN PHILIPPI,
and MICHAEL LAMOUREUX,

Defendant.

ORDER

Plaintiff Ramon Lopez has brought this action pursuant to 42 U.S.C. § 1983 against Al Esposito, Steven Philippi and Michael Lamoureux, employees of the State of Connecticut Department of Correction. Plaintiff alleges that these defendants retaliated against him for exercise of his rights pursuant to the First Amendment of the United States Constitution.

Specifically, plaintiff maintains that defendants Esposito and Philippi retaliated against him by falsely accusing him of being in possession of a gang symbol, resulting in his designation as a member of a Security Risk Group and transfer to a high security prison. Plaintiff asserts that defendant Lamoureux retaliated against him by falsely accusing him of being in possession of a weapon, resulting in disciplinary action being taken against him.

Defendants have filed a motion for summary judgment on grounds of, inter alia, plaintiff's failure to his exhaust administrative remedies as required by the Prison Litigation Reform Act ("PLRA") and the shield of qualified immunity. Plaintiff has failed to file

opposition to defendant's arguments in favor of summary judgment.

When a non-moving party fails to respond to a motion for summary judgment, "the district court is not relieved of its duty to decide whether the movant is entitled to judgment as a matter of law ." Vermont Teddy Bear Co., Inc. v. 1-800 Beargram Co., 373 F.3d 241, 242 (2d Cir. 2004). If the evidence submitted in support of the summary judgment motion does not meet the movant's burden of production, then summary judgment must be denied even if no opposing evidentiary matter is presented." D.H. Blair & Co., Inc. v. Gottdiener, 462 F.3d 95, 110 (2d Cir. 2006).

In this instance, the evidence demonstrates that plaintiff failed to file timely administrative grievances relative to his retaliation claims at issue in this case. Upon review of defendants' evidence and the merits of defendants' arguments, the Court finds that plaintiff's claims are barred by the PLRA for failure to exhaust his administrative remedies.

Accordingly, summary judgment (Doc. #21) is GRANTED in favor of all defendants.

The clerk is instructed to close this case.

So Ordered this 14th day of October, 2009.

/s/
WARREN W. EGINTON
SENIOR UNITED STATES DISTRICT JUDGE