

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

KENDALE McCOY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 12 C 5467
	)	
WEXFORD HEALTH SOURCES, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

Assistant Attorney General James Duran has filed an Answer by codefendant Marcus Hardy ("Hardy") to the First Amended Complaint brought by Kendale McCoy ("McCoy") under the auspices of 42 U.S.C. §1983 ("Section 1983"). This memorandum order is issued sua sponte because of one problematic aspect of that responsive pleading.<sup>1</sup>

Three affirmative defenses have been advanced following the Answer proper, the third of which defenses reads:

To the extent that Plaintiff has not exhausted available administrative remedies as required by 42 U.S.C. 1997(e) [this should properly be "§1997e(a)"], his claims are barred.

That assertion, which if true would automatically call for dismissal of this action because the exhaustion of administrative remedies is a statutory precondition to suit, is extraordinarily puzzling. McCoy's First Amended Complaint is a recital that is chock-full of efforts on his part to bring his grievance to the

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<sup>1</sup> No effort is made here to vet the Answer in its entirety, a matter that will be left to McCoy's counsel.

attention of the authorities at Stateville Correctional Center (where Hardy was formerly the Warden). Hardy's counsel is ordered to flesh out his claim of asserted nonexhaustion on or before April 9, 2013, after which this Court can determine if any other input is required from McCoy's counsel.



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Milton I. Shadur  
Senior United States District Judge

Date: March 26, 2013