

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIAM O. SPIVEY,
Plaintiff,

v.

SEAN FURLOW, *et al.*,
Defendants.

Case No. 3:10-cv-00689

MEMORANDUM & ORDER

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation (R&R) (Doc.98) wherein it is recommended that defendant Furlow's motion for summary judgment (Doc. 77) be granted. Plaintiff Spivey filed a response in opposition to the motion (Doc. 80).

After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court Judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Spivey has objected to the R&R, however, his objection does not pertain to any material covered in the R&R (Doc. 105). Instead, Spivey's objection which is handwritten in tiny print with each line overlapping the next on one piece of paper making it almost indecipherable, re-argues the merits of his case.

Furlow filed his motion for summary judgment (Doc. 77) on the basis of exhaustion of remedies. Magistrate Judge Frazier has reviewed the motion and objection and correctly assessed the case law regarding the exhaustion requirement in the Seventh Circuit. After holding a *Pavey* hearing, Magistrate Judge Frazier determined that Spivey failed to exhaust his administrative remedies. Spivey does not argue in his objection that he did exhaust his remedies or present any information regarding the exhaustion of remedies.

After reviewing the R&R, the Court finds it is correct and **ADOPTS** it in its entirety (Doc. 98). The Court therefore **GRANTS** Furlow's motion (Doc. 77) and **DISMISSES** him from this case with prejudice. As there are no remaining defendants in this case, the Court **DIRECTS** the Clerk of Court to enter judgment accordingly. Further, the Court **DENIES as moot** motions 99-111.

IT IS SO ORDERED.
DATED: May 14, 2012

s./ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE