

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSEPH DAVIS,

Plaintiff,

vs.

DR. WAHL and DR. SHEPHERD,

Defendants.

Case No. 10-cv-971-JPG-PMF

**MEMORANDUM AND ORDER**

This matter is before the Court on the Report and Recommendation (“R & R”) (Doc. 98) of Magistrate Judge Philip M. Frazier recommending the Court grant defendant Dr. Shepherd’s motion for summary judgment (Doc. 64) seeking a ruling on his affirmative defense of failure to exhaust administrative remedies.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. 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.* “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).

The Court has received no objection to the R & R. The Court has reviewed the entire file and finds that the R & R is not clearly erroneous. Accordingly, the Court hereby **ADOPTS** the R & R (Doc. 98) in its entirety. Specifically, the Court **GRANTS** defendant Dr. Shepherd’s motion for summary judgment (Doc. 64), and **DISMISSES** Defendant Dr. Shepherd from this case.

**IT IS SO ORDERED.**

**DATED:** January 2, 2013

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