

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

GILBERT EVANS,

Plaintiff,

vs.

CITY OF BELLEVILLE, *et al.*,

Defendants.

Case No. 14-cv-1417-SMY-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 23) of Magistrate Judge Philip M. Frazier recommending this Court deny Defendant Richard Watson’s Motion to Dismiss for Failure to Exhaust Administrative Remedies (Doc. 17). Judge Frazier held an evidentiary hearing pursuant to *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008) and found that, while Plaintiff had not exhausted his administrative remedies, he was unable to do so because the remedies process was unavailable to him.

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 Report. The Court has reviewed Defendant’s motion and case history and finds that the Report is not clearly erroneous. Accordingly, the Court **ADOPTS** the Report of Magistrate Judge Frazier (Doc. 23) and **DENIES** Defendant’s Motion to Dismiss for Failure to Exhaust Administrative Remedies (Doc. 17).

IT IS SO ORDERED.**DATED:** January 11, 2016

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE