

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

KEVIN PHELPS,)
vs.)
Plaintiff,)
vs.)
SALVADOR GODINEZ, et al.,)
Defendants.)
Case No. 15-CV-73-SMY-RJD

MEMORANDUM AND ORDER

YANDLE, District Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Reona J. Daly (Doc. 85) recommending that Defendant Jason McCarty's Motion for Summary Judgment for Plaintiff's Failure to Exhaust His Administrative Remedies (Doc. 71) be granted. Plaintiff failed to file a timely objection to the Report and Recommendation (See, Doc. 92); 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b)(2); SDIL-LR 73.1(b). For the following reasons, the Report and Recommendation of Magistrate Judge Daly is **ADOPTED** in its entirety.

Plaintiff Kevin Phelps is an inmate at the Lawrence Correctional Center. Defendant Jason McCarty worked as a correctional officer at Lawrence Correctional Center. Phelps filed suit pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. In recommending the granting of McCarty's motion for summary judgment for failure to exhaust administrative remedies, Judge Daly found that Phelps failed to complete the normal grievance process.

Where timely objections are filed, this Court must undertake a *de novo* review of the

Report and Recommendation. 28 U.S.C. § 636(b)(1)(B), (C); FED. R. Civ. P. 72(b); SDIL-LR 73.1(b); *Harper v. City of Chicago Heights*, 824 F. Supp. 786, 788 (N.D. Ill. 1993); *see also Govas v. Chalmers*, 965 F.2d 298, 301 (7th Cir. 1992). Where neither timely nor specific objections to the Report and Recommendation are made, however, this Court need not conduct a *de novo* review of the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985). Instead, the Court should review the Report and Recommendation for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). A judge may then “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Judge Daly thoroughly discussed and supported her conclusion that Plaintiff did not exhaust his available administrative remedies and committed no clear error in reaching her conclusion. Thus, the Court fully agrees with Judge Daly’s findings, analysis and conclusions and adopts her Report and Recommendation.

IT IS SO ORDERED.

DATED: April 5, 2017

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge