Curry v. Butler et al Doc. 70

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

STEVEN CURRY, R09761,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 16-CV-820-SMY-RJD**
	)	
KIMBERLY S. BUTLER,	)	
WILLIAM A. SPILLER,	)	
KENT E. BROOKMAN,	)	
TODD BROOKS, SHAUN GEE,	)	
BRANDON ANTHONY and	)	
CORY BUMP,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

Pending before the Court is Plaintiff Steven Curry's Motion for Summary Judgment Regarding Defendants' Exhaustion of Administrative Remedies Defense (Doc. 57). A prisoner's failure to exhaust administrative remedies is an affirmative defense that may be raised by the defendants. *Jones v. Bock*, 549 U.S. 199, 212, 127 S. Ct. 910, 919, 166 L. Ed. 2d 798 (2007). Therefore, Curry does not need to file a motion for summary judgment on the exhaustion issue. However, he may file a response in opposition if the Defendants choose to file a motion for summary judgment on the issue of exhaustion. Pursuant to the Scheduling Order (Doc. 53), the Defendants may file such a motion no later than March 23, 2017. If the Defendants choose not to file a motion for summary judgment on the exhaustion issue, the issue will be deemed waived and the parties may proceed to discovery on the merits. Accordingly, Plaintiff's motion is **DENIED**.

IT IS SO ORDERED.

DATED: January 4, 2017

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

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