

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

NICHOLAS GUENTHER,)	
)	
Plaintiff,)	
)	CAUSE NO. 3:13-CV-669 PS
vs.)	
)	
DR. NADIR L-SHAMI,)	
)	
Defendants.)	

ORDER

I referred this case to Magistrate Judge Christopher A. Nuechterlein to conduct an evidentiary hearing pursuant to *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), and to prepare a report and recommendation. (DE 45.) On April 15, 2015, Magistrate Judge Nuechterlein conducted an evidentiary hearing. (DE 59.) On May 1, 2015, he issued a report and recommendation in which he recommended that the claims against Dr. John Foster be dismissed without prejudice for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e(a). (DE 60.) The witnesses and evidence presented at the hearing were fully set forth by the magistrate judge. Based on the testimony and evidence presented, the magistrate judge found that Mr. Guenther did not properly exhaust his administrative remedies as to Dr. John Foster before filing suit. (DE 60.)

The parties were informed that they had fourteen days after being served with a copy of the Report and Recommendation to file any written objections. (DE 60, p. 9.) More than fourteen days have passed and no party filed any objection to the Report and Recommendation. *Willis v. Caterpillar, Inc.*, 199 F.3d 902, 904 (7th Cir. 1999)(explaining that

the failure to file a timely objection will result in the waiver of the right to challenge a report and recommendation).

For these reasons, I **ADOPT** the report and recommendation of the magistrate judge, and **DISMISS** the claims against Dr. John Foster **WITHOUT PREJUDICE** for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e(a). Accordingly, Dr. John Foster is dismissed from this case.

SO ORDERED.

ENTERED: June 1, 2015.

s/Philip P. Simon
Chief Judge
United States District Court