

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

|                           |   |                         |
|---------------------------|---|-------------------------|
| ERIC WILBURN,             | ) |                         |
|                           | ) |                         |
| Plaintiff,                | ) |                         |
|                           | ) |                         |
| v.                        | ) | Case No. 3:17-CV-059 JD |
|                           | ) |                         |
| STATE OF INDIANA, et al., | ) |                         |
|                           | ) |                         |
| Defendant.                | ) |                         |

**ORDER**

The defendants moved for summary judgment on their affirmative defense that the plaintiff, a prisoner, failed to exhaust his administrative remedies as required by the Prison Litigation Reform Act. The Court referred that motion to the magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). Magistrate Judge Michael G. Gotsch, Sr., thus prepared a Report and Recommendation in which he recommends that the Court deny the defendants’ motion. In particular, he concluded that a genuine dispute of fact exist as to whether prison staff misrepresented the proper grievance process or interfered with the plaintiff’s grievances so as to make the grievance process unavailable to him. The Report and Recommendation was entered on the docket on January 23, 2018, giving the parties through February 6, 2018 to file any objection, Fed. R. Civ. P. 72(b)(2), but no objections were filed.

After referring a dispositive motion to a magistrate judge, a district court has discretion to accept, reject, or modify, in whole or in part, the findings or recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1). Consistent with Federal Rule of Civil Procedure 72(b), the district court must undertake a de novo review “only of those portions of the magistrate judge’s disposition to which specific written objection is made.” *See Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999) (citing *Goffman v. Gross*, 59 F.3d 668, 671 (7th Cir. 1995)). If no

