

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

| | | |
|--------------------------------------|---|---------------------------|
| SHAUN L. STEELE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 1:13-cv-00982-JMS-DKL |
| |) | |
| WENDY KNIGHT Superintendent, et al., |) | |
| |) | |
| Defendants. |) | |

Entry Discussing Motions Relating to the Failure to Exhaust Administrative Remedies Defense

I.

The motion for summary judgment filed by defendant Fleming [dkt. 76] is **denied** because the plaintiff has provided sufficient evidence to create a genuine issue of material fact as to whether the administrative process was available to him when he attempted to file a grievance on or about November 29, 2013, concerning the November 22, 2013, incident when defendants Flemming and Johnson allegedly denied him the use of the restroom. *See* dkt. 98.

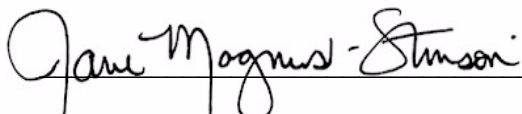
II.

The motion for *Pavey* hearing, filed by defendants Superintendent Knight, Matthew Johnson, and Sgt. Peters [dkt. 100] is **granted**. The merits of the failure to exhaust defense will be resolved as to all defendants at the hearing.

The Court will set the *Pavey* hearing and a pretrial conference to prepare for that hearing in a separate Entry in the near future.

IT IS SO ORDERED.

Date: October 21, 2015


 Hon. Jane Magnus-Stinson, Judge
 United States District Court
 Southern District of Indiana

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