

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF INDIANA  
 INDIANAPOLIS DIVISION

ALLENN PETERSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:16-cv-01280-TWP-MJD
	)	
KEITH BUTTS,	)	
JENNIFER FRENCH,	)	
MICHAEL THOMBLESON,	)	
MISTY CECIL,	)	
FARRAH OWENS,	)	
A PETTY,	)	
JUSTIN UPCHURCH,	)	
	)	
Defendants.	)	

**Entry Directing Development of Exhaustion Defense and Issuing Partial Stay**

The Court, having considered the above action and the matters which are pending, makes the following rulings:

The defendants have asserted the affirmative defense that the plaintiff failed to exhaust his administrative remedies prior to filing this lawsuit. This defense must be resolved before reaching the merits of this case. *Pavey v. Conley*, 544 F.3d 739, 742 (7th Cir. 2008); *Perez v. Wis. Dep't of Corr.*, 182 F.3d 532, 536 (7th Cir. 1999) (“The statute [requiring administrative exhaustion] can function properly only if the judge resolves disputes about its application before turning to any other issue in the suit.”). Accordingly, the defendants shall have **through December 2, 2016**, in which to either 1) file a dispositive motion in support of the affirmative defense that the plaintiff failed to exhaust his administrative remedies prior to filing this lawsuit, 2) notify the Court that this affirmative defense is not amenable to resolution through a dispositive motion, or 3) notify the Court that the defendants will not pursue the affirmative defense of failure to exhaust. If a

dispositive motion is filed, the plaintiff shall have **twenty-eight (28) days** in which to respond. The defendants shall then have **fourteen (14) days** in which to reply.

Except for activities associated with the development and resolution of the defendants' affirmative defense that the plaintiff failed to exhaust his administrative remedies prior to filing this action, or any other matter directed by the Court, any other activities or deadlines in the action are **stayed**.

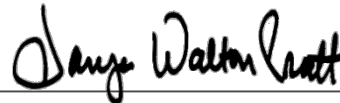
**IT IS SO ORDERED.**

Date: 10/13/2016

Distribution:

ALLENN PETERSON  
22855  
NEW CASTLE - CF  
NEW CASTLE CORRECTIONAL FACILITY - Inmate Mail/Parcels  
1000 Van Nuys Road  
NEW CASTLE, IN 47362

All electronically registered counsel



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TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana