

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 INDIANAPOLIS DIVISION

JAMES F. GRIFFITH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:17-cv-00194-TWP-MJD
)	
F. BRANNICK C/O, D. HASKINS,)	
YARBAR Lt., DEVINE SGT., E. DRADA)	
Sgt., N. LYDAY Sgt., PHILLIPS Sgt.,)	
)	
Defendants.)	

Entry Directing Development of Exhaustion Defense and Issuing Partial Stay

This matter is before the Court on Plaintiff James F. Griffith’s Complaint alleging violations his Eighth Amendment rights. In their April 24, 2017, Answer and Statement of Defenses and Affirmative Defenses, Defendants have asserted the affirmative defense that plaintiff, an Indiana prisoner, failed to exhaust his administrative remedies prior to filing this lawsuit. Dkt. 19, p. 5, ¶ 2. 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, Defendants shall have **through June 1, 2017**, in which to either 1) file a dispositive motion in support of the affirmative defense that 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 defendants will not pursue the affirmative defense of failure to exhaust. If a dispositive motion is filed, plaintiff shall have **twenty-eight (28) days** in which to respond. 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**. Discovery on the issue of exhaustion is allowed.

The **clerk is directed** to update the docket by adding plaintiff's prison identification number, 117892, to his address.

IT IS SO ORDERED.

Date: 4/26/2017



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

Distribution:

Electronically Registered Counsel

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Note to Clerk: Processing this document requires actions in addition to docketing and distribution.