

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT SANGO,

Plaintiff,

Case No. 2:15-CV-106

v.

HON. GORDON J. QUIST

TODD BASTIAN, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On April 1, 2016, Magistrate Judge Timothy P. Greeley issued a Report and Recommendation (R & R) in which he recommended that the Court grant Defendants' motion for summary judgment because Plaintiff failed to exhaust his administrative remedies. Plaintiff filed an objection and Defendants responded to that objection. After conducting a de novo review of the R & R, Plaintiff's Objection, Defendants' Response, and the pertinent portions of the record, the Court concludes that the R & R should be adopted.

Defendants submitted a Step III Grievance Report showing that Plaintiff filed his complaint before any of his Step III grievances were resolved. In response, Plaintiff argued that the grievance procedures were unavailable to him. The only evidence that Plaintiff provided in support was an affidavit stating that: (1) staff had thrown away his grievances, given them to other prisoners, refused to give him grievance forms, and not responded to his grievance forms; and (2) Plaintiff attempted to address the issues in his complaint in a grievance. Plaintiff has not provided a copy of his grievance, or even described its contents or the parties it named.

Defendants satisfied their burden of demonstrating lack of exhaustion by filing the Step III Grievance Report. Plaintiff was then required to come forward with some evidence to rebut that. *See Johnson v. La'Count*, No. 2:07-CV-248, 2009 WL 884627, at *3 (W.D. Mich. Mar. 27, 2009). Plaintiff failed to do so. Therefore,

IT IS HEREBY ORDERED that Report and Recommendation issued on April 1, 2016 (ECF No. 17) is **ADOPTED**.

IT IS FURTHER ORDERED that the Defendants' Motion for Summary Judgment (ECF No. 12) is **GRANTED**. Plaintiff's claims are **DISMISSED without prejudice**.

A separate judgment shall issue.

This case is concluded.

Dated: May 26, 2016

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE