

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALI P. MARTIN,

Plaintiff,

-against-

9:03-CV-0712
(LEK/DEP)

TED HOWARD, *et al*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on January 2, 2008, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 41).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Peebles' Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 41) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

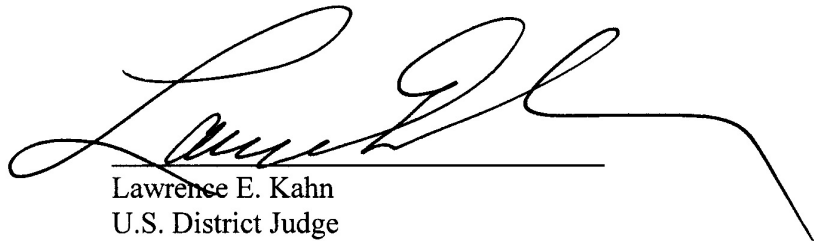
ORDERED, that Defendants' Motion for summary judgment (Dkt. No. 37) is **GRANTED** and Plaintiff's Complaint in this action is dismissed against Defendants Howard, White, Liberty,

Caron, and Goord, **with prejudice**, based upon Plaintiff's failure to exhaust available administrative remedies; and further, that Plaintiff's claims as against Defendants Girdich and Paige be dismissed **without prejudice**, based upon Plaintiff's failure to serve those Defendants. Accordingly, Plaintiff's Complaint is **DISMISSED** in its **ENTIRETY**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: February 05, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge