

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JEAN-MARIE PIERROT

Plaintiff,

**9:14-cv-1535
(GLS/CFH)**

v.

M. PISERCHIA et al.,

Defendants.

SUMMARY ORDER

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge Christian F. Hummel, duly filed on September 30, 2015. (Dkt. No. 32.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

Although plaintiff *pro se* Jean-Marie Pierrot filed no objections to the R&R, he has filed a letter seeking advice about whether, after he files a new action alleging exhaustion of his administrative remedies, he will be required to file “a new poor person application and a second \$350.00 filing fee . . . [o]r, will the \$350.00 paid towards the action . . . carry over to my re-filing . . . ?” (Dkt. No. 33 at 1.) As for the R&R, the court has reviewed it

for clear error and found none. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484GLS, 2006 WL 149049, at *6 (N.D.N.Y. Jan. 18, 2006). For that reason, the R&R is adopted in its entirety. As for Pierrot's letter, exhaustion of administrative remedies subsequent to filing suit is insufficient to meet the exhaustion requirement under the Prison Litigation Reform Act. See *Torres v. Gardner*, No. 9:11-cv-466, 2012 WL 177860, at *1 (N.D.N.Y. Jan. 23, 2012). Therefore, should Pierrot elect to file a new action, he must again either seek *in forma pauperis* status or pay the filing fee.

Accordingly, it is hereby

ORDERED that the R&R (Dkt. No. 32) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 26) is **GRANTED**; and it is further

ORDERED that Pierrot's complaint (Dkt. No. 7) is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that the Clerk shall file this Summary Order in the member case *Pierrot v. Sergeant Hahn*, No. 9:14-cv-1536 and close the case; and it is further

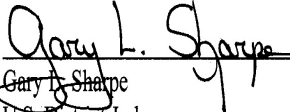
ORDERED that the Clerk shall close this case; and it is further

ORDERED that the clerk of the court serve a copy of this Summary

Order upon the parties.

IT IS SO ORDERED.

October 27, 2015
Albany, New York



Gary L. Sharpe
U.S. District Judge