

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEVIN THOMPSON,

Plaintiff,

v.

SGT. BOOTH, C.O., et al.,

Defendants.
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ORDER

16-CV-03477 (PMH)

PHILIP M. HALPERN, United States District Judge:

Counsel for all parties appeared at The Hon. Charles L. Bricant Jr. Federal Building and Courthouse, 300 Quarropas Street, White Plains, New York, in Courtroom 520 at 1:00 p.m. today. An evidentiary hearing was had on the record.

For the reasons indicated on the record and law cited therein, the Court found that Plaintiff failed to satisfy his burden of production to establish that the administrative grievance process was “unavailable” to him. *Williams v. Priatno*, 829 F.3d 118, 123 (2d Cir. 2016). Therefore, the Court found that Plaintiff failed to exhaust his administrative remedies as required under the Prison Litigation Reform Act (“PLRA”).

Because Plaintiff failed to exhaust his remedies, this action is dismissed with prejudice as to Defendants Salerno, Garnot, Jordan, and Vigna. The Court grants Plaintiff permission to seek a default judgment on liability with respect to Defendant Booth in accordance with this Court’s Individual Practices. In doing so, Plaintiff must specify why it is permissible for this case to proceed with respect to Defendant Booth, despite the Court’s finding that Plaintiff failed to exhaust his administrative remedies under the PLRA. See transcript.

SO ORDERED:

Dated: White Plains, New York
August 4, 2021

A handwritten signature in black ink, appearing to read "Halpern", written over a horizontal line.

Hon. Philip M. Halpern
United States District Judge