

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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RILAND BRYANT,

Plaintiff,

v.

**ORDER**  
08-CV-778S

MELVIN WILLIAMS & R. REYNOLDS,

Defendants.

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1. On October 21, 2008, Plaintiff Riland Bryant, an inmate proceeding *pro se*, commenced this action by filing a Complaint in this Court against Defendants, alleging excessive force. (Docket No. 1.) On December 26, 2008, Defendants filed a Motion to Dismiss. (Docket No. 4.) This Court referred the matter to the Honorable Hugh B. Scott, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(C). (Docket No. 5.)

2. On April 29, 2009, Judge Scott filed a Report and Recommendation recommending that Plaintiff's motion be granted based upon Plaintiff's failure to exhaust his administrative remedies. (Docket No. 14.) Judge Scott alternatively recommended that, in the event the Court reached the merits of Defendants' motion, the motion should be granted as to Defendant Melvin Williams on the failure to allege personal involvement, and denied as to Defendant R. Reynolds. (Id.) No objections to the Report and Recommendation were received from either party within ten (10) days from the date of its service, in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3).

3. This Court has carefully reviewed Judge Scott's Report and Recommendation as well as the underlying papers and will accept Judge Scott's recommendation that

Defendants' motion be granted on the grounds that Plaintiff failed to exhaust his administrative remedies.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 14) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendants' Motion to Dismiss (Docket No. 14) is GRANTED.

FURTHER, that the Clerk of the Court is directed to take the necessary steps to close this case.

SO ORDERED.

Dated: June 16, 2009  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge