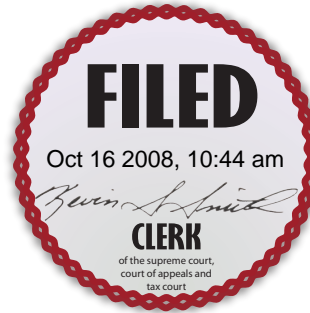


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

ATTORNEYS FOR APPELLEE:

**BRIAN GARY**  
Plainfield, Indiana

**STEVE CARTER**  
Attorney General of Indiana

**ARTURO RODRIGUEZ, II**  
Deputy Attorney General  
Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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BRIAN GARY, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A02-0806-PC-514  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Amy J. Barbar, Magistrate  
Cause No. 49G02-0111-PC-214666

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**October 16, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BROWN, Judge**

Brian Gary appeals the trial court's denial of his motion for credit time. Gary raises one issue, which we revise and restate as whether the post-conviction court erred when it failed to award Gary thirty-six months of credit for his education. In response, the State raises one issue, which we restate as whether Gary's case should be dismissed because Gary failed to exhaust his administrative remedies. We dismiss Gary's appeal.

The relevant facts follow. Gary was charged with three counts of child molesting as class A felonies. On December 11, 2002, Gary pleaded guilty to one count of child molesting as a class A felony, and the State dismissed the remaining charges. The trial court sentenced Gary to thirty years in the Indiana Department of Correction with ten years suspended.

Gary received an associate degree from Cypress Bible Institute in May 2006 and a bachelor degree in October 2006. Gary requested a thirty-six month credit for his degrees from the Indiana Department of Correction. On October 24, 2007, Charles Jones, the Coordinator for Adult and Vocational Programs with the Indiana Department of Correction, informed Gary that he was not eligible for credit time because his completed program was not from an accredited university. On October 30, 2007, Gary received a letter from the Cypress Bible Institute, which stated that its degrees were accredited by "Shema Israel Christian Ministries International Riverside California." Appellant's Appendix at 42. In February 2007, Gary filed a pro se motion for additional earned credit time, which the trial court denied.

We begin by addressing the State’s cross appeal issue, which we restate as whether Gary’s case should be dismissed because Gary failed to exhaust his administrative remedies. In Young v. State, 888 N.E.2d 1255, 1257 (Ind. 2008), the Indiana Supreme Court addressed a similar situation. The Court noted that “the correspondence presented to us by Young establishes only an initial determination by the DOC. It gives no information as to what DOC’s administrative grievance procedures are or whether they have been exhausted at all levels.” Id. The Court concluded that Young “must show in the first place what the relevant DOC administrative grievance procedures are, and then that he has exhausted them at all levels” and affirmed the dismissal of Young’s petition. Id.

Here, the record reveals that Gary received a letter from the Cypress Bible Institute, which stated that its degrees were accredited by “Shema Israel Christian Ministries International Riverside California.” Appellant’s Appendix at 42. Without citation to the record, Gary states that once he received this letter he immediately sent a letter to the Indiana Department of Correction and received no response. We direct Gary’s attention to Ind. App. Rule 46(A)(6)(a), which requires that “[t]he facts shall be supported by page references to the Record on Appeal or Appendix in accordance with Rule 22(C).” We also direct Gary’s attention to Ind. App. Rule 46(A)(8)(a), which requires that “[e]ach contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule

22.” Gary submitted no evidence that he provided the Department of Correction with the letter from the Cypress Bible School or exhausted his administrative remedies with the Department of Correction. Inasmuch as Gary has failed to exhaust his available remedies within the Department of Correction, we conclude that Gary’s appeal must be dismissed. See Young, 888 N.E.2d at 1257; see also Members v. State, 851 N.E.2d 979, 983 (Ind. Ct. App. 2006) (dismissing petitioner’s appeal because petitioner failed to exhaust his available remedies within the Department of Correction); Samuels v. State, 849 N.E.2d 689, 692 (Ind. Ct. App. 2006), trans. denied.

For the foregoing reasons, we dismiss Gary’s appeal.

Dismissed.

BAKER, C. J. and MATHIAS, J. concur