

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

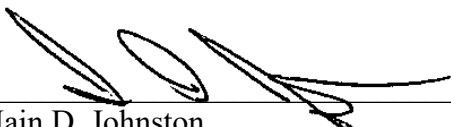
Elliott Herron,)	
)	
Plaintiff,)	
)	Case No. 19 C 50176
v.)	
)	Judge Iain D. Johnston
C.O. Reveniq,)	
)	
Defendant.)	

ORDER

On 6/17/2021 Magistrate Judge Jensen conducted a Pavey hearing, and on 7/6/2021 entered a Report and Recommendation that the defendant’s affirmative defense of failure to exhaust be denied because the defendant failed to meet his burden of showing by a preponderance of the evidence that the plaintiff failed to timely exhaust. Dkt. 76. In support, Judge Jensen credited the plaintiff’s testimony that he completed and turned in a grievance on April 8, 2019, corroborated by an inmate in an adjacent cell, over testimony from defense witnesses that the grievance was logged on April 18, 2019, which Judge Jensen found questionable because the grievance was denied on April 17, 2019. Judge Jensen gave the defendant to 7/20/2021 to object, but the defendant filed no objection. The Court has reviewed the Report and Recommendation and found it to be comprehensive and thorough. In the absence of any objection by the defendant, *see* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b), this Court accepts the Report and Recommendation [76] of Judge Jensen. The defendant’s request to dismiss the complaint based on his affirmative defense of failure to exhaust is denied.

Date: July 22, 2021

By:



Iain D. Johnston
United States District Judge