

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MICHAEL WILLIAMS, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No.: 3:04 cv 342 MJR  
 )  
 CARL MILLER, et al., )  
 )  
 Defendants. )

**ORDER**

This matter is before the Court on the Motion to Strike Affirmative Defenses filed by the plaintiff, Michael Williams, on June 20, 2005 (Doc. 15). The motion is **DENIED**.

Background

On May 18, 2004, the plaintiff, Michael Williams, filed suit alleging that the various defendants violated his Constitutional rights when they prevented him from exercising his religion, Judaism. In their answer, the defendants asserted a number of affirmative defenses including: qualified immunity, 11<sup>th</sup> Amendment immunity, that the plaintiff cannot seek emotional damages, and that the plaintiff failed to follow the prison grievance procedure. The plaintiff seeks to strike each of these defenses by essentially arguing that they are unavailable to these defendants.

Discussion

Federal Rule of Civil Procedure 12(f) provides that this Court may strike “from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Notwithstanding the plaintiff’s articulate arguments, the defendants’ affirmative defenses are not insufficient on their face. These defenses are commonly used in these types of

cases and often lead to judgment in favor of the defendants. As the defendants also point out, at least two of the defenses, qualified immunity and failure to exhaust, require facts that have not been developed at this stage of the proceedings. While the plaintiff may believe that the defendants will not be successful in these defenses, such arguments must be reserved for a motion for summary judgment or at trial.

For the foregoing reasons, the Motion to Strike Affirmative Defenses filed by the plaintiff, Michael Williams, on June 20, 2005 is **DENIED** (Doc. 15).

**DATED: July 13, 2005**

**s/ Donald G. Wilkerson**  
**DONALD G. WILKERSON**  
**United States Magistrate Judge**