

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6779

BEAUMONT GEREAU-BEY,

Plaintiff - Appellant,

versus

WALLENS RIDGE STATE PRISON; CAPTAIN JANEWAY;
W. R. HEMSLEY; T. PHILLIPS; S. K. YOUNG,
Warden,

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Samuel G. Wilson, District
Judge. (7:05-cv-00605-sgw-mf)

Submitted: November 3, 2006

Decided: November 16, 2006

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Beaumont Gereau-Bey, Appellant Pro Se. Mark Ralph Davis, OFFICE OF
THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Beaumont Gereau-Bey appeals the district court's order dismissing his 42 U.S.C. § 1983 (2000) complaint for failure to exhaust administrative remedies. The district court properly required exhaustion of administrative remedies under 42 U.S.C. § 1997e(a) (2000). Because Gereau-Bey did not demonstrate to the district court that he exhausted his administrative remedies or that such remedies were not available, the court's dismissal of the action was not an abuse of discretion. Accordingly, we affirm the district court's order, which is modified to reflect that the dismissal was without prejudice to Gereau-Bey's right to refile once he has exhausted his administrative remedies. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED