



Arkansas inmate James Murphy appeals following the district court's<sup>1</sup> adverse grant of summary judgment in his pro se 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs. For the reasons discussed below, we affirm the judgment.

Initially, we note that Murphy's discovery-related argument on appeal is unavailing. See Fed. R. Civ. P. 56(d) (if non-movant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify opposition, court may, inter alia, allow time to take discovery); Nolan v. Thompson, 521 F.3d 983, 986 (8th Cir. 2008) (in absence of motion for continuance under Rule 56 accompanied by affidavit, district court generally does not abuse its discretion in granting summary judgment on basis of record before it).

Turning to the district court's summary judgment decision, we agree with the district court that Murphy failed to exhaust his administrative remedies on all but one of his claims, and we affirm the dismissal of the unexhausted claims. See Johnson v. Jones, 340 F.3d 624, 627 (8th Cir. 2003) (if exhaustion was not completed at time of filing suit, dismissal is mandatory). As to Murphy's exhausted claim against defendant Anderson for alleged deliberate indifference in treating a shoulder injury, we agree with the district court that there was no genuine issue as to whether Anderson disregarded any risk to Murphy's health. See Gibson v. Weber, 433 F.3d 642, 646 (8th Cir. 2006) (to show deliberate indifference, inmate must prove that prison officials knew about excessive risks to health but disregarded them, and that their unconstitutional acts caused his injuries).

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<sup>1</sup>The Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Beth Deere, United States Magistrate Judge for the Eastern District of Arkansas.

We affirm the judgment.

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