

United States Court of Appeals
For the Eighth Circuit

No. 18-2025

Lenora R. Banks-Davis,

Plaintiff - Appellant,

v.

United States of America,

Defendant - Appellee.

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: May 20, 2019

Filed: May 23, 2019

[Unpublished]

Before COLLOTON, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Federal inmate Lennora Banks-Davis appeals after the district court¹ denied her relief under 28 U.S.C. § 2241, for failure to exhaust administrative remedies. We agree with the district court that Banks-Davis was not entitled to relief. In this proceeding, she could challenge only the execution of her sentence. She was required first to exhaust her administrative remedies, but she failed to do so. *See Mathena v. United States*, 577 F.3d 943, 946 (8th Cir. 2009); *see also Abdullah v. Hedrick*, 392 F.3d 957, 959 (8th Cir. 2004). We conclude, however, that the petition should have been dismissed without prejudice. *See Mathena*, 577 F.3d at 946. Accordingly, we modify the judgment to reflect that Banks-Davis's section 2241 petition is dismissed without prejudice, *see* 28 U.S.C. § 2106, and we affirm the judgment as modified. *See* 8th Cir. R. 47B.

¹The Honorable Michael J. Davis, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Franklin L. Noel, United States Magistrate Judge for the District of Minnesota, now retired.