

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
DELTA DIVISION

JOE LOUIS KELLEY

PLAINTIFF

v.

No. 2:22-cv-34-DPM

BRANDON DAVIS, Deputy Warden;  
TONI SHOCKEY, Chaplain; and  
KEITRICH WADE, Coach, Recreation  
Supervisor

DEFENDANTS

ORDER

On *de novo* review, the Court adopts Magistrate Judge Ervin's recommendation as supplemented, *Doc. 32*, and overrules Kelley's objections, *Doc. 33*. Fed. R. Civ. P. 72(b)(3). A litigant cannot avoid the statute's requirement of pre-suit exhaustion by filing a motion for injunctive relief. A motion requires a foundation—a case-commencing pleading. The Court properly treated Kelley's motion as his complaint and request for injunctive relief. Motion for summary judgment, *Doc. 25*, granted. Kelley's complaint will be dismissed without prejudice for failure to exhaust.

So Ordered.



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D.P. Marshall Jr.  
United States District Judge

