

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

SYLVESTER O. BARBEE
ADC #131311

PLAINTIFF

v.

NO. 5:13CV00225-JLH-BD

ANGELIKA SMARJESSE, et al.

DEFENDANTS

ORDER

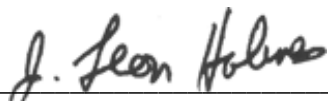
The Court has received a Recommended Disposition (“Recommendation”) from Magistrate Judge Beth Deere. After carefully reviewing the Recommendation, the timely objections, and conducting a *de novo* review of the record, the Court concludes that the Recommendation should be, and hereby is, approved and adopted as this Court’s findings in all respects. Judge Deere recommended that Sylvester Barbee’s complaint be dismissed because when he filed the complaint he had not exhausted his available remedies. Barbee objects on the ground that he has exhausted his administrative remedies since that time. The statute plainly requires that all administrative remedies be exhausted before the complaint is filed. *See* 42 U.S.C. § 1997e(a) (providing that no action with respect to prison conditions may be filed until such administrative remedies as are available are exhausted). The Eighth Circuit has explained:

Under the plain language of section 1997e(a), an inmate must exhaust administrative remedies *before* filing suit in federal court. Thus, in considering motions to dismiss for failure to exhaust under section 1997e(a), the district court must look to the time of filing, not the time the district court is rendering its decision, to determine if exhaustion has occurred. If exhaustion was not completed at the time of filing, dismissal is mandatory.

Johnson v. Jones, 340 F.3d 624, 627 (8th Cir. 2003) (emphasis in the original).

The motions for summary judgment are GRANTED. Documents #54 and #57. Barbee’s claims are DISMISSED without prejudice.

IT IS SO ORDERED this 24th day of June, 2014.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE