

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

**JAMES CLAYTON MAY,
ADC # 137749**

PLAINTIFF

v.

5:15-cv-00348-KGB-JVV

**KEVIN DEMON RIDGELL, Sergeant,
Delta Regional Unit**

DEFENDANT

ORDER

The Court has reviewed the Proposed Findings and Recommendations (“Recommendations”) submitted by United States Magistrate Judge Joe J. Volpe and plaintiff James Clayton May’s objections (Dkt. Nos. 15, 20). After carefully considering the objections and making a *de novo* review of the record, the Court concludes that the Recommendations should be, and hereby are, approved and adopted in their entirety as this Court’s findings in all respects.

The Court writes separately to address Mr. May’s objections. Judge Volpe determined that Mr. May did not exhaust his administrative remedies before pursuing litigation in this case (Dkt. No. 15, at 3-4). Consequently, Judge Volpe recommends that defendant’s motion for summary judgment be granted. Rather than respond to that determination, Mr. May’s objections contend that defendant Kevin Ridgell used excessive force when he pepper sprayed Mr. May for refusing to work outside in the heat. This Court, however, cannot consider the substance of Mr. May’s claims since he did not exhaust his administrative remedies until after he filed this action. Exhaustion of administrative remedies, pursuant to the Prison Litigation Reform Act (“PLRA”), is required for all prisoner suits seeking redress for prison circumstances or occurrences, including claims of excessive force. *Porter v. Nussle*, 534 U.S. 516 (2002). Mr. May has not alleged that he has satisfied the PLRA requirements or is otherwise exempt from those provisions .

The Court grants defendant’s motion for summary judgement is granted and dismisses

without prejudice the complaint due to Mr. May's failure to exhaust administrative remedies (Dkt. Nos. 12, 2). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 28th day of April, 2016.

A handwritten signature in black ink that reads "Kristine G. Baker". The signature is written in a cursive, flowing style.

Kristine G. Baker
United States District Court Judge