

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

**RUFUS POINDEXTER
ADC # 140873**

PLAINTIFF

v.

CASE NO. 5:17-CV-00093 BSM

JOHNNY GIBSON

DEFENDANT

ORDER

The recommended disposition [Doc. No. 11] submitted by United States Magistrate Judge Beth Deere and plaintiff Rufus Poindexter's objections [Doc. Nos. 12, 13] thereto have been received. After *de novo* review of the record, the recommended disposition is adopted in part. Poindexter has brought this same claim against defendant Johnny Gibson previously, and it was dismissed without prejudice for failure to exhaust administrative remedies. *See Poindexter v. Andrews et al.*, No. 5:16-CV-00244 KGB (E.D. Ark. Feb. 16, 2017), ECF No. 26. The accident Poindexter complains of occurred on September 23, 2014. He did not file a grievance until October 11, 2016, well outside the time prescribed by the ADC's grievance procedure, and the merit of Poindexter's grievance was not addressed because his grievance was untimely. Doc. No. 16, at 21. Nothing has changed. Accordingly, this claim is dismissed with prejudice for failure to exhaust administrative remedies.

IT IS SO ORDERED this 6th day of July 2017.



UNITED STATES DISTRICT JUDGE