

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>JASON EMANUEL SPARKS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 5:14-CV-352 (MTT)</b>
	)	
<b>OFFICER JOHNSON, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**ORDER**

United States Magistrate Judge Stephen Hyles recommends granting the Defendants' motion to dismiss the Plaintiff's complaint because he failed to exhaust his administrative remedies and denying the Plaintiff's motions for a temporary restraining order, appointment of counsel, and leave to amend his complaint. (Doc. 26). The Plaintiff has not objected to the Recommendation. The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Defendants' motion to dismiss (Doc. 15) is **GRANTED**, and the Plaintiff's motion for a temporary restraining order (Doc. 6), motion for appointment of counsel (Doc. 7), and motion for leave to amend his complaint<sup>1</sup> (Doc. 8) are **DENIED**. The complaint is **DISMISSED without prejudice**.

**SO ORDERED**, this 10th day of September, 2015.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT

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<sup>1</sup> Although leave to amend should be "freely give[n] ... when justice so requires," Fed. R. Civ. P. 15(a)(2), "denial of leave to amend is justified by futility when the complaint as amended is still subject to dismissal." *Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1263 (11th Cir. 2004) (citation and internal quotation marks omitted). Because the Plaintiff's proposed amendment does not address his failure to exhaust, amendment would be futile.