

FILED  
U.S. DISTRICT COURT  
IV.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
BRUNSWICK DIVISION**

2011 JUN 21 PM 4:57

CLERK C. Robinson  
SO. DIST. OF GA.

NEALLY CUNNINGHAM,

Plaintiff,

vs.

JOHNATHAN MEAD; KENDELL  
SHAW; and PATRICK MOORE,

Defendants.

CIVIL ACTION NO.: CV209-197

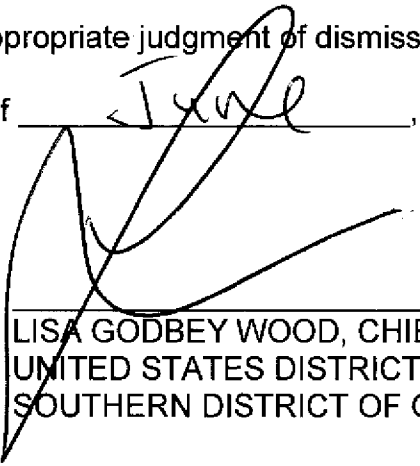
**ORDER**

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff reiterates his contention that Defendants' actions made the administrative remedy process unavailable to him. In so doing, Plaintiff also reiterates his contention that Defendants threatened to recommend that Plaintiff be transferred if he continued making allegations against them. However, as the Magistrate Judge noted, Plaintiff's subsequent actions in filing a Federal Tort Claims Act complaint and an administrative remedy against Defendant Mead belie his contention that Defendants' actions rendered the administrative remedy process unavailable to him. The Magistrate Judge's factual resolution that Plaintiff failed to exhaust his available administrative remedies stands.

Plaintiff's Objections are **overruled**. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Defendants' Motion to

Dismiss is **GRANTED**. Plaintiff's Complaint is **DISMISSED**, without prejudice, due to his failure to exhaust his administrative remedies prior to the filing of his Complaint. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 21 day of June, 2011.



LISA GODBEY WOOD, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA