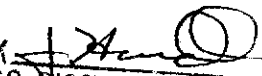


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AUGUSTA DIV.

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SO. DIST. OF GA.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA


DUBLIN DIVISION

WAYMON GREENE,)	
)	
Plaintiff,)	
)	
v.)	CV 311-023
)	
ROBERT ROSIER, Warden, et al.,)	
)	
Defendants.)	

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which no objections have been filed. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Defendants' motion for summary judgment is **GRANTED** as to exhaustion, Plaintiff's complaint is **DISMISSED** without prejudice,¹ and a final judgment shall be **ENTERED** in favor of Defendants.

SO ORDERED this 15th day of February, 2013, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹Although Defendants are clearly entitled to summary judgment based on Plaintiff's failure to exhaust his administrative remedies, and although it is at least arguable that a district court has authority to dismiss a prisoner's claims with prejudice for failure to exhaust administrative remedies, it is the practice of this Court to dismiss cases such as this one without prejudice, in order that the prisoner-plaintiff may attempt to properly exhaust administrative remedies. Cf. Johnson v. Meadows, 418 F.3d 1152, 1157 (11th Cir. 2005) (quoting Marsh v. Jones, 53 F.3d 707, 710 (5th Cir. 1995)) ("[w]ithout the prospect of a dismissal with prejudice, a prisoner could evade the exhaustion requirement by filing no administrative grievance or by intentionally filing an untimely one").