

ORIGINAL

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

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

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DUBLIN DIVISION

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DESI LEE HYMAN JACKSON,)
)
 Plaintiff,)
)
 v.) CV 313-084
)
 MR. OGLETREE,)
)
 Defendant.)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed (doc. no. 9). The Magistrate Judge recommended dismissal of Plaintiff's complaint without prejudice for failure to exhaust administrative remedies. (Doc. no. 7.) In his objections, Plaintiff states that his "option to use the grievance procedure was depleted" since grievances were not available to him in the segregation unit, he asked for grievances for several weeks and months, and he even wrote to the "GDC Office of Investigations," but received no response. (Doc. no. 9.) He also requests leave to fulfill the exhaustion requirement. (*Id.*)

Because the Court has no discretion to waive the exhaustion requirement, even if it can be shown that the grievance process is futile or inadequate, Plaintiff's objections lack merit. See Alexander v. Hawk, 159 F.3d 1321, 1325-26 (11th Cir. 1998).

Moreover, despite Plaintiff's allegations about the timeline of his attempts to use the grievance procedure, Plaintiff signed his complaint less than one month after the date of the alleged incident. (See generally doc. no. 1.) Lastly, because exhaustion of remedies is a "precondition" to filing an action in federal court, Plaintiff had to complete the entire administrative grievance procedure *before* initiating this suit. Poole v. Rich, 312 F. App'x 165, 166 (11th Cir. 2008) (*per curiam*); see also Higginbottom v. Carter, 223 F.3d 1259, 1261 (11th Cir. 2000) (*per curiam*).

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Plaintiff's complaint is **DISMISSED** without prejudice for failure to exhaust administrative remedies and this civil action is **CLOSED**.

SO ORDERED this 3rd day of March, 2014, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE