

No. 1:15-CV-96-ACL

prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Exhaustion is mandatory. *Porter v. Nussle*, 534 U.S. 516, 524 (2002). Where, as in the instant case, it is apparent from the face of the pleadings and motions that a plaintiff has not met the applicable exhaustion requirements, a Court may properly dismiss an in forma pauperis complaint prior to service. Cf. *Smith v. Unknown Corrections Officer*, 196 Fed.Appx. 451, 2006 WL 2620837 (8th Cir. 2006). As noted above, plaintiff concedes that he did not exhaust his available administrative remedies before filing the instant action. Therefore, his claims presently are barred by 42 U.S.C. § 1997e(a)

Therefore,

IT IS HEREBY ORDERED that plaintiff’s motion for an extension of time to file an amended complaint [Doc. #3] is **DENIED**, because he states he has not yet exhausted his prison grievances.

IT IS FURTHER ORDERED that this action is **DISMISSED**, without prejudice, for plaintiff’s failure to comply with the Court’s Order of June 8, 2015, and for failure to exhaust the prison grievance system prior to filing this action. See Fed. R. Civ. P. 41(b); 42 U.S.C. § 1997e(a).¹

¹This dismissal shall not count as a strike against plaintiff for purposes of 28 U.S.C. § 1915(g).

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith. See 28 U.S.C. § 1915(a)(3).

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 14th day of July, 2015.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE