

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

JAMES MORRISON, JR.,

Plaintiff,

vs.

SGT. ANDY ODNEY, and the
DIRECTOR OF THE SILVER BOW
COUNTY DETENTION CENTER,

Defendants.

CV-17-20-BU-BMM

ORDER

Plaintiff James Morrison, Jr. (Morrison) has filed a Complaint *pro se*. Morrison alleges that the Defendants violated his constitutional rights in violation of 42 U.S.C. § 1983 by failing to protect him against an assault by another inmate while he was incarcerated in the Butte-Silver Bow County Detention Center. (Doc. 2).

Defendants have filed motions for summary judgment. (Docs. 28, 34). Defendants argue that Morrison's claims should be dismissed for failure to exhaust his administrative remedies.

United States Magistrate Judge Jeremiah C. Lynch issued Findings and Recommendations in this matter on April 25, 2018. (Doc. 40). Judge Lynch recommended that Morrison's Complaint be dismissed given that Morrison had not exhausted the administrative remedies available to him at the Butte-Silver Bow

County Detention Center. (Doc. 40 at 3). Morrison did not file objections to Judge Lynch's Findings and Recommendations.

The Court has reviewed Judge Lynch's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Lynch's Findings and Recommendations, and adopts them in full. Section 1997e(a) of Title 42 prohibits a prisoner from bringing an action under 42 U.S.C. § 1983 until after he has exhausted his administrative remedies. 42 U.S.C. § 1997e(a); *Woodford v. Ngo*, 548 U.S. 81, 88-89 (2006). This exhaustion requirement is mandatory. *Woodford*, 548 U.S. at 85. The undisputed facts establish that Morrison has failed to exhaust his administrative remedies at the Butte-Silver Bow County Detention Center as required under § 1997e(a).

Accordingly, IT IS ORDERED:

1. Defendant Mark Johnson's Motion for Summary Judgment (Doc. 28) is GRANTED.
2. Defendant Sgt. Andy Odney's Motion for Summary Judgment (Doc. 34) is GRANTED.
3. Morrison's Complaint (Doc. 2) is DISMISSED without prejudice for failure to exhaust his administrative remedies.
4. Any appeal of this decision would not be taken in good faith as

Morrison's Complaint lacks arguable substance in law or fact. Fed. R. App. P.

24(a)(3).

5. The Clerk is directed to enter judgment accordingly.

DATED this 16th day of May, 2018.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris
United States District Court Judge