

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED
MAY 19 2005
JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

JEFFERY MCCLELLAN,

Plaintiff,

v.

J.D. TERRY,

Defendant.

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Civil Action No. 7:05CV 00306

MEMORANDUM OPINION AND
DISMISSAL ORDER

By: Samuel G. Wilson
United States District Judge

Plaintiff Jeffery McClellan, a Virginia inmate incarcerated at the Botetourt Correctional Center, brings this 42 U.S.C. § 1983 action against defendant J.D. Terry alleging various Eighth and Fourteenth Amendment violations. However, McClellan admits in his complaint that he has not filed any grievances regarding any of the facts or claims he alleges. Under 42 U.S.C. § 1997e(a), an inmate must exhaust all available administrative remedies prior to filing a civil rights claim in federal court, and the court must dismiss any unexhausted claims without prejudice. Therefore, the court finds that McClellan has failed to exhaust his available administrative remedies as to his claims, and so the court dismisses this action without prejudice. Accordingly, it is hereby

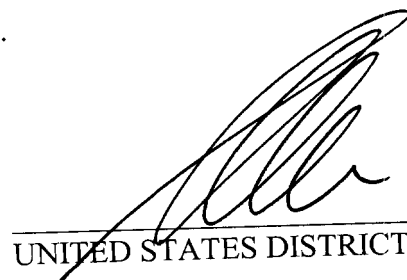
ORDERED

that this action is **DISMISSED** without prejudice pursuant to 42 U.S.C. § 1997e(a) for failure to exhaust administrative remedies. This action is stricken from the active docket of this court. McClellan may refile his claims in a separate action after he has exhausted his available administrative remedies.

The Clerk is directed to send certified copies of this dismissal order to the plaintiff and to

counsel of record for the defendant, if known.

ENTER: This 19th day of May, 2005.



UNITED STATES DISTRICT JUDGE