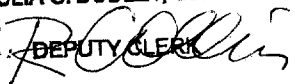


NOV 30 2011

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

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

CHRIS CARTY,)	
Plaintiff,)	Civil Action No. 7:11-cv-00557
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
W.A. WRIGHT, <i>et al.</i> ,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Plaintiff, Chris Carty, a Virginia inmate proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Carty complains that he was subjected to unreasonable searches and that he was sexually harassed and assaulted by prison officials. Upon review of his submission and attachments, however, the court finds that Carty has not exhausted all available administrative remedies before filing this action, and therefore, the court dismisses his suit without prejudice pursuant to 42 U.S.C. § 1997e(a).

I.

The Prison Litigation Reform Act requires that inmates exhaust all available administrative remedies *before* filing an action challenging prison conditions. 42 U.S.C. § 1997e(a); see also, Dixon v. Page, 291 F.3d 485 (7th Cir. 2002), citing Perez v. Wisconsin Dep't of Corrections, 182 F.3d 532, 535 (7th Cir. 1999) (holding that an inmate's complaint must be dismissed for failure to exhaust even if the inmate demonstrates that he filed a grievance and appealed it to the highest level of the prison's grievance procedure after commencing the lawsuit). A district court may *sua sponte* dismiss a complaint where a prisoner's failure to exhaust is apparent from the face of the complaint. Anderson v. XYZ Correctional Health Services, 407 F.3d 674, 683 (4th Cir. 2005). In this case, Carty concedes that he is in the process of grieving his claim and his verified statement indicates that he is currently awaiting a response

to his appeal of the denial of his regular grievance. Because Carty has not exhausted all available administrative remedies *before* filing this action, the court dismisses his suit without prejudice for failure to exhaust.

II.

For the stated reasons, Carty's complaint is dismissed without prejudice pursuant to §1997e(a) for failure to exhaust.

ENTER: This 30th day of November, 2011.



United States District Judge