

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

<b>ERIC LEE CHILDRESS,</b>	)	
	)	
Plaintiff,	)	Case No. 7:16CV00221
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>S. AINSWORTH, ET AL.,</b>	)	By: James P. Jones
	)	United States District Judge
Defendants.	)	

*Eric Lee Childress, Pro Se Plaintiff; Rosalie Pemberton Fessier, Timberlake, Smith, Thomas & Moses, P.C., Staunton, Virginia, for Defendants.*

This civil rights action under 42 U.S.C. § 1983 by a Virginia prison inmate was referred to the magistrate judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) for determination of the defendants’ contention that the plaintiff failed to exhaust his administrative remedies before filing this action. After conducting an evidentiary hearing, the magistrate judge filed a Report and Recommendation (the “Report”) on April 13, 2017. The Report proposes findings of fact and conclusions of law that the plaintiff did not exhaust administrative remedies under the available grievance procedure before filing this lawsuit, as required under 42 U.S.C. § 1997e(a), and recommends dismissal of his claims for that reason. The parties were advised of their right to file written objections to the report and

recommendation. The time for so doing has lapsed, and neither party has filed objections.

I have reviewed the Report and I am satisfied that there is no clear error on the face of the record. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Accordingly, the Report is **ACCEPTED** and the plaintiff’s action will be **DISMISSED** for failure to exhaust available administrative remedies as required under 42 U.S.C. § 1997e(a).

It is so **ORDERED**.

A separate final judgment will be entered herewith.

ENTER: May 9, 2017

/s/ James P. Jones  
United States District Judge