

remedies procedure and whether it applies to the issues in this case cannot excuse his failure to make any effort at utilizing the jail's procedures. Ross, 136 S. Ct. at 1857-88 (rejecting argument that inmate was excused from attempting satisfaction of § 1997e(a) exhaustion requirement based on his reasonable, but mistaken belief that available administrative remedies did not apply to his issue). Accordingly, the court finds it clear from the face of the complaint that he did not satisfy the exhaustion requirement in compliance with § 1997e(a) before filing this action. On that basis, the court will dismiss the case without prejudice. Such a dismissal leaves Roberts free to refile one or more of his claims after he has exhausted available administrative remedies as required by law.¹ An appropriate order will issue this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to plaintiff.

ENTER: This 16th day of November, 2018.



Senior United States District Judge

¹ The court also finds that Roberts' current complaint fails to state a claim upon which relief can be granted. See 28 U.S.C. § 1915A(b)(1) (allowing summary dismissal of complaint for failure to state a claim). A jail official's mere failure to use appropriate care while driving is, at most, negligence, and negligent acts by state officials do not support a § 1983 claim, which requires showing that the plaintiff was deprived of a constitutional right. See Cty. of Sacramento v. Lewis, 523 U.S. 833, 849 (1998) (“[T]he Constitution does not guarantee due care on the part of state officials; liability for negligently inflicted harm is categorically beneath the threshold” of constitutional protections). In addition, Roberts' complaint does not state facts showing that the one named defendant was personally involved in the deficient medical care or the retaliation that Roberts alleges. See Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009) (holding that § 1983 plaintiff “must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution”).