

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TYARRAL JONES,

Plaintiff,

v.

Case No. 20-CV-1074

ANGELA THOMPSON, *et al.*,

Defendants.

ORDER

On November 17, 2021, defendants Cindy Barter, William Borgen, Sheri Klenke, Kira Labby, and Angela Thompson (State Defendants) filed a motion for partial summary judgment on the ground that the *pro se* plaintiff, Tyarral Jones, failed to exhaust his administrative remedies on two claims before filing this lawsuit. (ECF No. 40.) That same day, defendant Sara Miller filed a motion for summary judgment on the grounds that Jones failed to exhaust his administrative remedies for all claims against her. (ECF No. 47.) Also on November 17, 2021, the court issued a notice and order informing Jones that he had until December 17, 2021, to file a response to the defendants' motions. (ECF No. 44.) The court cautioned Jones that, if by that date he did not respond or file a letter explaining why he was unable to do so, the court would accept all facts asserted by the defendants as undisputed.

The December 17, 2021 deadline has passed and Jones has not filed a response. As such, the court will construe the motion as unopposed. The court has reviewed the defendants' motions, briefs in support, and the undisputed facts, *see* Fed. R. Civ. P. 56(e)(2), and concludes that the State Defendants are entitled to summary judgment on Claim 3 and Claim 4 and that Sara Miller is entitled to summary judgment on all claims against her. Accordingly, the defendants' motions are granted, and the claims are dismissed without prejudice. *See Chambers v. Sood*, 959 F.3d 979, 984 (7th Cir. 2020) ("A premature lawsuit must be dismissed without prejudice, and the prisoner must file a new suit after fully exhausting his administrative remedies.").

IT IS THEREFORE ORDERED that the State Defendants' motion for partial summary judgment (ECF No. 40) and Sara Miller's motion for summary judgment (ECF No. 27) are **GRANTED**.

IT IS FURTHER ORDERED that Claim 3, Claim 4, and Sara Miller are **DISMISSED** without prejudice.

Dated at Milwaukee, Wisconsin this 10th day of January, 2022.

BY THE COURT

A handwritten signature in black ink that reads "William E. Duffin". The signature is written in a cursive style and is positioned above a horizontal line.

WILLIAM E. DUFFIN
United States Magistrate Judge