

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-16001
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT October 22, 2008 THOMAS K. KAHN CLERK</p>

D. C. Docket No. 05-00090-CV-BAE-6

JAMES ANDRE BENTON,

Plaintiff-Appellant,

versus

WARDEN GLENN RICH,
DEPUTY WARDEN R. D. COLLINS,
SERGEANT POTTER,
SERGEANT HOBBY,
OFFICER OSBORN,

Defendants-Appellees.

On Appeal from the United States District Court
for the Southern District of Georgia

(October 22, 2008)

Before TJOFLAT, ANDERSON and HULL, Circuit Judges.

PER CURIAM:

Plaintiff is an inmate in a Georgia prison. He brought this suit under 42 U.S.C. § 1983 alleging that certain conditions of his confinement are cruel and unusual in violation of the Eighth and Fourteenth Amendments. The district court, adopting the report and recommendation of the magistrate judge as the opinion of the court, dismissed his complaint without prejudice because he failed to exhaust his administrative remedies as required by the Prison Litigation Reform Act before instituting this lawsuit. He now appeals.

We agree with the district court that plaintiff failed to exhaust his administrative remedies and is therefore precluded from maintaining this action.

AFFIRMED.