

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JOHN GREGORY DAHLK,

Plaintiff,

v.

KATHY LEMENS and JEANANNE HERTEL,

Defendants.

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ORDER

03-C-113-C

On May 12, 2003, I granted plaintiff leave to proceed in forma pauperis on his claims that defendant Kathy Lemens was deliberately indifferent to his serious medical needs in violation of the Eighth Amendment and retaliated against him for filing an inmate complaint in violation of the First Amendment by intentionally delaying a refill of his prescription medication for gastric pain and acid reflux for nine days in June 2002. In addition, I granted plaintiff leave to proceed on claims that (1) he had to wait nine months to have a broken tooth fixed; (2) he was never given an extra pillow ordered for him by a doctor; (3) one of his prescriptions went unfilled for a period of time in December 2002; and(4) his muscle relaxer medication was not cancelled for six days after the prison health services unit received an advisory regarding a possible negative reaction between his asthma inhaler and the

medication.

On June 4, 2003, defendants moved to dismiss plaintiff's claims for his failure to exhaust administrative remedies. In a briefing schedule established that same day, the court gave plaintiff until June 26, 2003, in which to oppose the motion. Plaintiff has not opposed the motion or written to explain his failure to do so.

From a review of defendant's unopposed motion and supporting documentation, I conclude that plaintiff has failed to fully exhaust his administrative remedies with respect to his claims because he has not followed the procedures the state has established for that process.

#### ORDER

IT IS ORDERED that defendant's unopposed motion to dismiss is GRANTED and this case is DISMISSED without prejudice for plaintiff's failure to exhaust his administrative remedies.

Entered this 1st day of July, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge