

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

DONALD BUFORD,

Plaintiff,

v.

JIM SUTTEN, TIM DOUMA and
PAT SIEDSCHLAG,

Defendants.

MEMORANDUM

04-C-959-C

On June 24, 2005, I dismissed this case without prejudice for plaintiff's failure to exhaust his administrative remedies. Now plaintiff has written the court to advise that he is in the process of exhausting his administrative remedies. He asks whether he may move to reopen this case after he has completed the exhaustion process or whether he will have to file a new lawsuit.

Unfortunately, I am not free to grant a request to reopen a lawsuit that has been dismissed under 42 U.S.C. § 1997e once the inmate completes the administrative process. Under the Prison Litigation Reform Act, prisoners must "exhaust 'such administrative remedies as are available' *before* bringing a lawsuit" Massey v. Helman, 196 F.3d 727,

733 (7th Cir. 1999)(citing 42 U.S.C. § 1997e) (emphasis added). For the purpose of § 1997e, a complaint is "brought" when it is tendered to the district clerk. Ford v. Johnson, 362 F.3d 395, 399 (7th Cir. 2004). Plaintiff tendered his complaint in this case to the clerk of this court for filing on December 9, 2004. He cannot "bring" it twice. Therefore, if he intends to pursue his claims, he will have to file a new lawsuit after he exhausts his administrative remedies.

Entered this 24th day of October, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge