

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

DAVID DAHLER,

Plaintiff,

v.

ORDER

DARYL KOSIAK and LT.
JOHNSON,

06-C-528-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$2.90, the Court addresses the merits of plaintiff's complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$350.00 filing fee is paid in full.

Plaintiff alleges that defendants failed to properly investigate his federal tort claim which denied him due process. He also alleges that they failed to follow proper procedures in searching his room and taking his property. Although plaintiff filed a tort claim concerning the taking of his property, he has not alleged that he has exhausted his administrative remedies concerning his due process claims. Plaintiff's complaint must be dismissed for his failure to exhaust his administrative remedies. 42 U.S.C. §1997e(a).

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already

provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) .

ORDER

IT IS ORDERED that plaintiff's complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim under federal law.

IT IS FURTHER ORDERED that plaintiff's motion for service by the United States Marshal is DENIED as moot.

IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 16th day of October, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge