

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

FREDDIE T. MCLAURIN, JR.,

Plaintiff,

v.

TRAVIS HAG,

Defendant.

ORDER

11-cv-766-slc

Plaintiff Freddie T. McLaurin, Jr., a prisoner at the Columbia Correctional Institution, has been granted leave to proceed *in forma pauperis* on his claim that he was sexually assaulted on September 18, 2010 by defendant Travis Hag, in violation of plaintiff's rights under the Eighth Amendment. Presently before the court is defendant's motion to dismiss the complaint on the ground that plaintiff failed to exhaust his administrative remedies. Dkt. 21. The motion, which McLaurin has not opposed, will be granted.

The 1996 Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), provides that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." The Court of Appeals for the Seventh Circuit has taken a strict approach to exhaustion, holding that district courts lack discretion to decide claims on the merits unless the exhaustion requirement has been satisfied. *Dixon v. Page*, 291 F.3d 485, 488 (7th Cir. 2002); *see also Perez v. Wisconsin Dept. of Corrections*, 182 F.3d 532, 535 (7th Cir. 1999).

In support of the motion, defendant has submitted an affidavit from Welcome Rose, a Corrections Complaint Examiner for the Department of Corrections. Dkt. 23. Rose avers that

she searched the record of inmate complaints filed under Wisconsin's Inmate Complaint Review System and was unable to find any inmate complaint filed by plaintiff regarding the claim he asserts in this lawsuit. Plaintiff has not responded to the motion, so this fact is undisputed.

Accordingly, because plaintiff did not exhaust the administrative remedies that were available to him before his filed his lawsuit, his complaint must be dismissed.

ORDER

IT IS ORDERED that this case is DISMISSED WITHOUT PREJUDICE for plaintiff's failure to satisfy 42 U.S.C. § 1997e(a)'s exhaustion requirement.

Entered this 19th day of September, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge