

December 10, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-10785  
Conference Calendar

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DERRICK DWAYNE RICHARDSON,

Plaintiff-Appellant,

versus

GREGORY BOLAND, ET AL.,

Defendants,

GREGORY BOLAND; BRUCE SHIELDS; MARTIN C. LANSFORD;  
OMAR S. SANCHEZ; JACK BORDEN; RENE MENDOZA; BAKER;  
J. RIDGE; WAYNE SCOTT; JOSEPH K. PRICE,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:00-CV-388  
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Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Derrick Dwayne Richardson, Texas prisoner # 610689, appeals the district court's dismissal of his 42 U.S.C. § 1983 action for failure to exhaust his administrative remedies. Because Richardson's grievances were denied as untimely, he did not exhaust his administrative remedies. See Days v. Johnson, 322

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

F.3d 863, 866-67 (5th Cir. 2003); Marsh v. Jones, 53 F.3d 707, 710 (5th Cir. 1995). Richardson has not explained the delay in filing his grievances or shown that any defenses to the exhaustion requirement such as waiver, estoppel, or equitable tolling are applicable. See Days, 322 F.3d at 866. This court will not consider Richardson's argument, raised for the first time on appeal, that he was not required to exhaust administrative remedies because he was seeking monetary relief which is not available through the administrative process. See Leverette v. Louisville Ladder Co., 183 F.3d 339, 342 (5th Cir. 1999). Nonetheless, prisoners must exhaust administrative remedies without regard to whether monetary relief is available. See Booth v. Churner, 532 U.S. 731, 740 (2001). The district court's judgment is AFFIRMED.