

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60320
Summary Calendar

MARK L. SALISBURY,

Plaintiff-Appellant,

versus

PHILIP MCLAURIN, In official capacity as Deputy Warden;
INMATE ACCOUNTS SUPERVISOR, One unknown named Inmate Accounts
Supervisor, in official capacity as Inmate Accounts Supervisor;
DON GRANT, Warden; KIM WILLIAMS, in individual capacity; J. A.
BANKS, in individual capacity; L. POLK, in individual capacity;
MRS. COOPER; DWAYNE TAYLOR; ROBERT L. JOHNSON; WALTER BOOKER,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:99-CV-242-B-D

April 25, 2002

Before JONES, SMITH and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Mark Salisbury, Mississippi prisoner # 67386, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint without prejudice for failure to exhaust prison administrative remedies under 42 U.S.C. § 1997e. He argues that he did not intend to include as a party to his action the person who filed the motion to dismiss for failure to exhaust and that the magistrate judge at

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985), hearing had excused Salisbury's failure to exhaust.

The record does not support Salisbury's contention that the magistrate judge excused the exhaustion requirement in Salisbury's case. The district court's dismissal of Salisbury's complaint without prejudice for failure to exhaust was not error. See 42 U.S.C. § 1997e(a); Wendall v. Asher, 162 F.3d 887, 889-90 (5th Cir. 1998).

AFFIRMED.