

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-31092  
Conference Calendar

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MARCUS CHATMAN,

Plaintiff-Appellant,

versus

KELLY WARD, Warden;  
ALTON BRADDOCK, Assistant Warden;  
JIM GILDON, Captain;  
JOHNNIE SUMLIN, Major,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 97-CV-971  
- - - - -

October 20, 1999

Before JONES, WIENER, and STEWART, Circuit Judges.

PER CURIAM:\*

Marcus Chatman, Louisiana prisoner #349549, appeals the district court's dismissal without prejudice of his 42 U.S.C. § 1983 action for failure to exhaust his prison administrative remedies pursuant to 42 U.S.C. § 1997e(a).

Chatman's pending motions are DENIED.

The Prison Litigation Reform Act amended § 1997e(a) to provide that no § 1983 action may be filed by a prisoner until

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

available administrative remedies have been exhausted.

§ 1997e(a) (West Supp. 1999). Because Chatman did not exhaust his prison administrative remedies prior to filing his amended complaint, the district court properly dismissed this action without prejudice under § 1997e(a). See Powe v. Ennis, 177 F.3d 393, 394 (5th Cir. 1999).

Chatman's appeal is without merit and therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. Our dismissal of this appeal counts as a strike against Chatman for purposes of 28 U.S.C. § 1915(g). We caution Chatman that once he accumulates three strikes, he may not proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.