

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40455
Conference Calendar

KEVIN LYNN BROWN,

Plaintiff-Appellant,

versus

TOMMY CRUM; WESLEY ADAMS,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:99-CV-64

February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Kevin Lynn Brown, Texas prisoner #654055, appeals the dismissal without prejudice of his 42 U.S.C. § 1983 action for failure to exhaust administrative remedies. Because Brown sought both monetary damages and injunctive relief, he was required to exhaust his administrative remedies before filing suit in federal court. Whitley v. Hunt, 158 F.3d 882, 887 (5th Cir. 1998); see Arvie v. Stalder, 53 F.3d 702, 705-06 (5th Cir. 1995).

Subsequent to the entry of final judgment by the district court, evidence of exhaustion of administrative remedies was filed into the record. Because this evidence was not before the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court when it rendered final judgment, the dismissal without prejudice was not error. See 42 U.S.C. § 1997e(a).

Accordingly, the district court's judgment dismissing the complaint without prejudice is AFFIRMED. Brown's motion to supplement the record on appeal is DENIED as unnecessary.