

*NO:* \_\_\_\_\_

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**SUPREME COURT OF THE UNITED STATES**

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**BENJAMIN E. SCHREIBER—PETITIONER**

**-VS-**

**Dr. STEPHEN E. SPARKS, et al.—RESPONDENTS**

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**APPENDIX**

**AND**

**EXHIBITS**

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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No: 18-2305

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Benjamin E. Schreiber

Plaintiff - Appellant

v.

Nick Ludwick; Stephen Sparks; Catherine S. Jurgens; Michael E. Takacs; Kevin Doerschug; Jordan Homan; University of Iowa Hospitals and Clinics; Dana Fowler; Iowa Department of Corrections

Defendants - Appellees

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Appeal from U.S. District Court for the Southern District of Iowa - Des Moines  
(4:17-cv-00043-RP)

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**JUDGMENT**

Before LOKEN, STRAS, and KOBES, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

March 01, 2019

Order Entered in Accordance with Opinion:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

Appendix--C

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

BENJAMIN E. SCHREIBER,

Plaintiff,

v.

NICK LUDWICK and STEPHEN SPARKS,

Defendants.

4:17-cv-00043-RP-CFB

**ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT  
(SEALED)**

Plaintiff Benjamin E. Schreiber is an inmate currently housed at the Iowa State Penitentiary (ISP) in Fort Madison, Iowa. He filed this 42 U.S.C. § 1983 lawsuit pro se alleging Defendants violated his constitutional rights. He is now represented by counsel.

Defendants move for summary judgment on the basis that Schreiber failed to exhaust his available administrative remedies on these claims. They also argue they are entitled to summary judgment on the merits of his claims, or entitled to qualified immunity. Schreiber resists the motion. The matter is now fully briefed and ready for ruling.

**I. Summary Judgment Standard**

The Court will grant summary judgment if, viewing the evidence in the light most favorable to the nonmoving party, "no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "The non-moving party receives the benefit of all reasonable inferences supported by the evidence, but has 'the obligation to come forward with specific facts showing that there is a genuine issue for trial.'" *Atkison v. City of Mt. View*, 709 F.3d 1201, 1207 (8th Cir. 2013) (quoting *Dahl v. Rice Cnty.*, 621 F.3d 740, 743 (8th Cir. 2010)).

**IV. Summary and Conclusion**

**Defendants' Motion for Summary Judgment on the basis of exhaustion, ECF No.17,**  
is granted. Schreiber's complaint is dismissed without prejudice for failure to exhaust his available administrative remedies.

IT IS SO ORDERED.

Dated this 16th day of April, 2018.

Robert W. Pratt  
ROBERT W. PRATT  
U.S. DISTRICT JUDGE

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

No: 18-2305

Benjamin E. Schreiber

Appellant

v.

Nick Ludwick, et al.

Appellees

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Appeal from U.S. District Court for the Southern District of Iowa - Des Moines  
(4:17-cv-00043-RP)

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**ORDER**

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

Judge Colloton did not participate in the consideration or decision of this matter.

April 11, 2019

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

Appendix--D