

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Reginald L. Dunahue — PETITIONER
(Your Name)

VS.

William K. Straughn, et al — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

U.S. District Court Eastern Dist. Of Arkansas
U.S. Court Of Appeals (8th Cir.)

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

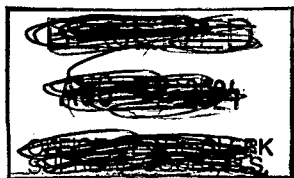
☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

_____, or

☐ a copy of the order of appointment is appended.



Reginald Dunahue
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Reginald Dunbar, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Self-employment	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Income from real property (such as rental income)	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Interest and dividends	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Gifts	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Alimony	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Child Support	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Disability (such as social security, insurance payments)	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Unemployment payments	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Public-assistance (such as welfare)	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Other (specify): <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
Total monthly income:	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
n/a	n/a	n/a	\$ n/a
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
n/a	n/a	n/a	\$ n/a
			\$
			\$

4. How much cash do you and your spouse have? \$ none
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
none	\$ none	\$ none
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value none

☐ Other real estate
Value none

☐ Motor Vehicle #1
Year, make & model none
Value none

☐ Motor Vehicle #2
Year, make & model none
Value none

☐ Other assets
Description none
Value none

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

Amount owed to you

Amount owed to your spouse

None

\$ None

\$ None

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

Relationship

Age

None

None

None

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment
(include lot rented for mobile home)

\$ None

\$ None

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

\$ None

\$ None

Home maintenance (repairs and upkeep)

\$ None

\$ None

Food

\$ None

\$ None

Clothing

\$ None

\$ None

Laundry and dry-cleaning

\$ None

\$ None

Medical and dental expenses

\$ None

\$ None

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>none</u>	\$ <u>none</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>none</u>	\$ <u>none</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>none</u>	\$ <u>none</u>
Life	\$ <u>none</u>	\$ <u>none</u>
Health	\$ <u>none</u>	\$ <u>none</u>
Motor Vehicle	\$ <u>none</u>	\$ <u>none</u>
Other: <u>none</u>	\$ <u>none</u>	\$ <u>none</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>none</u>	\$ <u>none</u>	\$ <u>none</u>
Installment payments		
Motor Vehicle	\$ <u>none</u>	\$ <u>none</u>
Credit card(s)	\$ <u>none</u>	\$ <u>none</u>
Department store(s)	\$ <u>none</u>	\$ <u>none</u>
Other: <u>none</u>	\$ <u>none</u>	\$ <u>none</u>
Alimony, maintenance, and support paid to others	\$ <u>none</u>	\$ <u>none</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>none</u>	\$ <u>none</u>
Other (specify): <u>none</u>	\$ <u>none</u>	\$ <u>none</u>
Total monthly expenses:	\$ <u>none</u>	\$ <u>none</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? NONE

If yes, state the attorney's name, address, and telephone number: NONE

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? NONE

If yes, state the person's name, address, and telephone number: NONE

12. Provide any other information that will help explain why you cannot pay the costs of this case.

The Ark. Dept. OF Corr. doesn't pay me

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 7.26.2024, 20 24

Reginald Durahue
(Signature)

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Reginald Dunahue — PETITIONER
(Your Name)

VS.

William Straughn et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court Of Appeals (8th Cir.)

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Reginald Dunahue
(Your Name)

Arkansas Dept. Of Correction
(Address)

Marianna, Arkansas. 72360
(City, State, Zip Code)

NONE
(Phone Number)

Questions

Did the U.S. district court have grievance(s) from me that exhausted my 1st Amendment Claim, 1st Amendment Violation Claim

Was dismissal of my 1st Amendment Claim erroneous and not supported by the record in my case

Did the U.S. Court of Appeals (8th Cir.) enter a decision in my case that conflicts with decisions it made precedently in the same matter in other cases.

LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

U.S. District Court Eastern District of Arkansas
Case # 2:23-cv-00016

Reginald L. Donahue v. William F. Straughn—deputy director of ADC;
Maurice Culclager—Warden II of Tucker Max Unit in ADC;
Christopher Johnson—former deputy warden of Brickeys, ADC;
Marcus Etherly—former Brickeys Unit Captain, ADC; Michael
Richardson—deputy warden of Brickeys Unit, ADC; Stephanie
Palmer—Sargent of Brickeys, ADC; Property Control Sargent—Jenkins—
White, Brickeys ADC; T. Westbrook—Brickeys Sargent, ADC; Tyronne
Allison—Brickeys Chief of Security, ADC; Kitchen Captain, S. Bell
Brickeys, ADC; Tucker Max Unit Warden, James Shepman, ADC;
~~Tucker Max Unit deputy warden~~ Brickeys Warden—Moses Jackson
ADC; Brickeys Captain, Swiney ADC; ADC Director Dexter
Payne.

List Of Proceedings.

U.S.D.C. Judge Brian S. Miller On 3/16/2023 dismissed my 8th & 14th Amendment claims, plus dismissed defendants Straughn, Johnson, Etherly, Richardson, Palmer, Jenkins - White, Westbrook, Allison, Bell, Swiney & Payne - - Allowed my 1st Amendment retaliation claim against defendants Shipman, Culclager & Jackson to stand.

5/23/23, U.S.D.C. Judge Miller denied my preliminary injunctive relief motion On 5/23/2023.

U.S.D.C. Judge Miller on 8/28/2023 dismissed my case
&
U.S.C.A. (8th Cir.) affirmed On April 19, 2024.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Porter v. Nussle, 534 U.S. 516, 112 S.Ct. 983, 152 L.Ed.
2d 12 (2002)

STATUTES AND RULES

42 U.S.C. § 1983

1st Amendment U.S. Const.

The PLRA

OTHER

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 19, 2024.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

To: Supreme Court Of The United States, Chief Justice
In: Washington, D.C. 20543-0001

This is pro se appeal for You, Honorable U.S. Supreme Court Chief Justice to Examine the 42 U.S.C. § 1983 Civil Complaints and Attached prison based grievances I Submitted to the U.S. district Court in Eastern District Of Arkansas.

— A Petition for A Writ Of Certiorari —

I, Reginald L. Dunahue comes to this U.S. Supreme Court to beg it to accept my appeal for it to Examine the 42 U.S.C. § 1983 Complaints, plus Arkansas prison based grievances included w/ those Complaints on file in the U.S. district Court in the Eastern district of Arkansas.

I'm incarcerated in Arkansas' Brickeys/ East Ark. Unit. Maliciously I was placed here by Warden for Arkansas' Tucker Max- Prison, James Shipman and his deputy, Maurice Culclager; plus Arkansas' Brickeys/ East Ark. Unit, Moses Jackson III (Warden) is complicit, also.

My case in the U.S. district court began in year 2023 after I, Reginald Dunahue lodged numerous prison grievances about Mr. Shipman and Mr. Culclager Sending me to Brickeys Unit in Marianna, AR. because I, R. Dunahue had lodged Various prison grievances against Mr. Culclager's Sexual improprieties towards me; fraud and Misuse of Arkansas' Tax Dollars by Mr. Shipman & Mr. Culclager; and Mr. Shipman & Mr. Culclager Covering up the fact Multiple inmates who were at Tucker Max- Prison in years 2020-2022 had been Killed by Use of illegal drugs, also had been ~~influenced~~ ~~influenced~~ by illegal drugs to commit Unreported Suicides.

During Year 2022

I submitted (3) Sexual Misc pursuant to the Arkansas' Prison not reviewed, investigated, resp. After I made the Sexual Misc to me and said "he would deal folks who write grievances on" and Mr. Shipman had me sent

While I've been at the East A Jackson III has maliciously and Shower, Shave, Wear Clothing, Sh and nail clippers, receive therm ive haircuts, eating spoon & for adequately clean housing. 2 Moses Jackson called me to me -- Maurice Culclager & Jam put up with enough of my grie they asked him would ~~take~~

Due to my atypical and inhum East Ark. Unit, I filed over ional deprivations cited above ason I submitted a complaint

Year 2022

While I, Reginald L. Dunahue was confined at Tucker max-unit in Tucker, Arkansas -- the deputy director, Mr. Straughn recommended Tucker max-unit head warden, James Shipman & deputy warden, Maurice Culclager allow me to come out of the cell I was in everyday and be out for 10 hours doing chores. Maurice Culclager & James Shipman didn't approve of Mr. Straughn's recommendation and therefore they kept me locked in a cell for 24 hours a day everyday. I got to thinking it would be a good idea to write to the IRS, State Treasurer & the F.B.I. too, and tell those entities about the billions of dollars the state and federal governments dishes out to the Arkansas Department of Corrections to hold programs designed to educate, rehabilitate and cultivate inmates on lock down in max-units, but none of those programs exist at Tucker max-unit.

I wrote 20 or 30 notarized affidavits about the fact the Arkansas prison officials receives money to duties and services they choose to not do, and I tried to mail out those affidavits -- the Tucker max-unit mail room personnel blocked the delivery of them. Warden Maurice Culclager received the affidavits and had me brought before him so he could tell me he received them. ~~XXXXX~~ I saw him & Mr. Culclager told me he had a family to feed and he felt like I was trying to stop him from ^{able} being to feed his family.

2 months later I was sent to punitive isolation, and while I was in isolation Mr. Culclager visited me. He came in a cell that I was in in punitive isolation and said to me "he would improve the situation I was in if he could insert his penis into my anus".

After Brickeys Unit Warden, Mr. Jackson told me, Reginald Donahue — — —
Tucker Max-Unit Warden, Mr. Shipman and his deputy Mr. Culclager had
me moved from Tucker Max-Unit to Brickeys Unit because :

1) I Lodged multiple grievances about Mr. Culclager's Sexual improprieti-
es towards me, and

2) I Attempted to mail out damning information about fraud and Sup-
pression of illegal drug influenced Suicides at Tucker Max-Unit by
Mr. Shipman & Mr. Culclager ——— I promptly tendered prison
based grievances against Mr. Shipman, Mr. Culclager and Mr. Jack-
son for Sending me, Reginald Donahue to Brickeys Unit On 10/24/
2022 to Suffer Cruel and UnUsual punishment, and as retaliation
for Exercising my 1st Amendment U.S. Constitutional Right.

Also, I Lodged numerous grievances as the months elapsed, about Mr.
Jackson Executing the punishment by allowing his Subordinates.
and his Officers to deny me right to Shower, Shave, go Outside;
access eating Spoons or forks, Cups, thermal UnderWear, Coat and
toboggan; obtain haircuts, shaves, nail clippers; Deny me Safe to
Use Dining Trays. The U.S. District Court Eastern District Of Ar-
kansas received & filed my grievances at the Same time it filed
my Civil Complaint made pursuant to 42 U.S.C. § 1983; however it
Omitted to Examine my grievances at its pre-service Screening Stage
and during its Weighing Of the motion to dismiss my Complaint lodged
by Kesia Morrison—Assistant Arkansas Attorney General.

Assistant Ark. Atty. Gen., Mrs. Morrison guided the Judge's (Brian S. Miller) Conclusion to dismiss my 1st Amendment Violation Claim by falsely averring the grievances by me didn't exhaust my claim. Carried by my Civil Complaint made pursuant to 42 U.S.C. § 1983. Mrs. Morrison succeeded in having my claim dismissed by singling out two of my grievances she averred insufficiently exhausts my claim against Mr. Shipman, Mr. Culclager & Mr. Jackson. Actually they do exhaust my claim made pursuant to 42 U.S.C. § 1983; however, the 8th Cir. Ct. App. disagreed. My complaints put the defendants on notice I'm alleging truthfully Mr. Shipman & Mr. Culclager sent me, Reginald Dunahue to Bricks Unit because they intend to put me in atypical and Unconstitutional Confinement conditions as retaliation for me reporting Mr. Culclager's Sexual improprieties, fraud and suppression of the cause of Multiple inmate deaths at Tucker Max-Unit. My pleading conformed w/ the rule this Court laid out for making pleadings in Case *Swierkiewicz v. Sorema N.A.* 534 U.S. 506, 122 S.Ct. 992, 995, 152 L.Ed.2d 1 (2002), and the (2) grievances Assistant A.G. Morrison referenced in her appeal brief, corresponds with my pleading's nature, which is retaliation by Mr. Shipman, Mr. Culclager and Mr. Jackson for me, Reginald Dunahue exercising the 1st Amendment right to employ prison based grievances, letters and notarized affidavits to report unlawful actions and omissions by Mr. Culclager & Mr. Shipman. The 8th Cir. Ct. Of Appeals disagreed.

See, the USDC decided since the two grievances brought up by the assistant a.g. don't look exactly like my complaint,, I didn't exhaust my administrative remedies as to my 1st Amendment claim. The 8th Cir. Ct. Of Appeals sided with the USDC. But, nowhere in the PLRA does it say prisoners' grievance statement has to mirror his complaint pleadings.

What I'm praying the Chief Justice will see is the Eighth Circuit Court ~~Of Appeals~~ of Appeals didn't exercise plenary review over the USDC's order granting summary judgment in my case & the Eighth Circuit in my case didn't view the facts in a light most favorable to me, Reginald Dunahue when it weighed the assistant a.g.'s motion for summary judgment in my case, which professed falsely Mr. Shipman, Mr. Colclager & Mr. Jackson were entitled to summary judgment because my grievances' wording didn't match exactly the wording in my complaint.

Chief Justice, I'm hoping you'll find error in that idea — — because the U.S. Supreme Court urges prisoners exhaust their available administrative remedies before bringing a action under section 1983 about prison life, regardless if the prisoners are contesting general circumstances in prison, or they're contesting a particular episode. See *Porter v. Nussle*, 534 U.S. 516, 122 S.Ct. 983, 152 L.Ed.2d 12 (2002).

Chief Justice, I'm hoping you'll find it to be absurd for USDC Judge Brian S. Miller to dismiss my complaint because the grievances I, Reginald Dunahue had filed didn't exhaust a claim in my 1st complaint. Any claim I made in my first complaint were dead. Refer to Brief Of Appellees pages 2 & 3 to see that the USDC based dismissal theory on non-exhaustion of an accusation in my 1st complaint.

Hon. Chief Justice, I pray you'll see that Summary judgment granted in my case wasn't appropriate because I satisfied the exhaustion requirement of the PLRA in this case here; the lower Courts deviated badly from precedent & relevant Court doctrine and rules when they handled my case here; Neither Court granted me evidentiary hearings for me to show & explain to them which of my grievances it has, that exhaust the claim made in my amended Complaint; neither court examined my complaint and grievances judicially in this case here; and neither court viewed the facts of my case in a light most favorable to me, Reginald Dunahue according to Fed. R. Civ. P. 56(c).

Conclusion

U.S. Supreme Court Chief Justice I, Reginald Dunahue pray you will Order my USDC case records be forwarded to you expeditiously. Chief Justice also I pray when you get My USDC case records, you'll Examine them Critically and see where the USDC Judge, Brian S. Miller exercised prejudice, Unfairness and abuse of discretion when he denied my motions for: 1) Appointment of a Civil law attorney, 2) Evidentiary hearing, and 3) preliminary injunctive relief. Chief Justice also I pray you'll see USDC Judge, S. Miller exercised a gross abuse of discretion when he dismissed all of the defendants and my claims against them, in Case Dunahue v. Straughn, et al USDC Case # 2:23-cv-00016.

By, Reginald Dunahue #106911
8/13/24

Reginald Dunahue

ADC #106911

EAST ARKANSAS REGIONAL UNIT

Arkansas Division of Correction

Post Office Box 970

Marianna, AR 72360

STATE OF ARKANSAS

COUNTY OF

Lee) §
)Reginald DonahueAFFIDAVITI, Reginald Donahue, after first being duly sworn, do hereby swear, depose
and state that: ~~XXXXXX~~ Every Statement made in the foregoing mot-ion is real & true—plus made by me, Reginald Donahue.On August 13th 2024 I'm going to drop this foregoing motion
in a U.S. Mail box with prepaid postage stamped on it,
to be mailed to the U.S. Supreme Court. In my petition
All Statements I've made are true & based on Civil Law.I further swear that the statements, matters and things contained herein are true and accurate to
the best of my knowledge, information and belief.August 13, 2024

DATE

Reginald Donahue

AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 13th day of
August, 20 24Stephen Lane Sr.

NOTARY PUBLIC

My Commission Expires:

1.25.2027

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Reginald Dunahue — PETITIONER
(Your Name)

VS.

William Straughn, et al — RESPONDENT(S)

PROOF OF SERVICE

Reginald Dunahue, do swear or declare that on this date, ~~AUGUST 18~~ 28-2024, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Arkansas Attorney General Office and the Clerk
U.S Supreme Court

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8-28-2024, 2024

RD Dunahue
(Signature)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-3221

Reginald L. Dunahue

Plaintiff - Appellant

v.

William F. Straughn, Deputy Director, ADC; Maurice Culclager, Warden, Brickeys, ADC; C. Johnson, Assistant Warden, Brickeys Max, ADC; Marcus Etherly, Captain, Brickeys Max, ADC; Richardson, Assistant Warden, Brickeys Max, ADC; Stephanie Palmer, Sgt., Brickeys Max, ADC; White, Sgt., Brickeys Max, ADC; Westbrook, Sgt., Brickeys Max, ADC; Tyrone Allison, Sgt./Major, Brickeys Max, ADC; Erma Bell, Captain, Brickeys Max, ADC; James Shipman, Warden, Brickeys, ADC; Moses Jackson, Warden, Brickeys Max, ADC; Swiney, Captain, Brickeys Max, ADC; Dexter Payne, Director, ADC

Defendants - Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Delta
(2:23-cv-00016-BSM)

JUDGMENT

Before BENTON, GRASZ, and STRAS, 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.

April 19, 2024

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

/s/ Stephanie N. O'Banion

United States Court of Appeals
For the Eighth Circuit

No. 23-3221

Reginald L. Dunahue

Plaintiff - Appellant

v.

William F. Straughn, Deputy Director, ADC; Maurice Culclager, Warden,
Brickeys, ADC; C. Johnson, Assistant Warden, Brickeys Max, ADC;
Marcus Etherly, Captain, Brickeys Max, ADC; Richardson, Assistant Warden,
Brickeys Max, ADC; Stephanie Palmer, Sgt., Brickeys Max, ADC;
White, Sgt., Brickeys Max, ADC; Westbrook, Sgt., Brickeys Max, ADC;
Tyrone Allison, Sgt./Major, Brickeys Max, ADC; Erma Bell, Captain, Brickeys
Max, ADC; James Shipman, Warden, Brickeys, ADC; Moses Jackson, Warden,
Brickeys Max, ADC; Swiney, Captain, Brickeys Max, ADC;
Dexter Payne, Director, ADC

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Arkansas

Submitted: April 16, 2024

Filed: April 19, 2024

[Unpublished]

Before BENTON, GRASZ, and STRAS, Circuit Judges.

PER CURIAM.

In this pro se 42 U.S.C. § 1983 action, Reginald Dunahue appeals the district court's¹ orders dismissing some of his claims for improper joinder and granting summary judgment on the remaining claims. Having carefully reviewed the record and the parties' arguments on appeal, we find no basis for reversal. *See Strandlund v. Hawley*, 532 F.3d 741, 745 (8th Cir. 2008) (reviewing dismissal for misjoinder under abuse of discretion standard); *Townsend v. Murphy*, 898 F.3d 780, 783 (8th Cir. 2018) (reviewing grant of summary judgment de novo). Accordingly, we affirm the judgment of the district court, *see* 8th Cir. R. 47B, and we deny Dunahue's motion for appointment of counsel as moot.

¹The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas, adopting the recommended disposition of the Honorable Edie R. Ervin, United States Magistrate Judge for the Eastern District of Arkansas.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

**REGINALD DUNAHUE
ADC #106911**

PLAINTIFF

v.

CASE NO. 2:23-CV-00016-BSM

WILLIAM F. STRAUGHN, *et al.*

DEFENDANTS

JUDGMENT

Consistent with the order entered today, this case is dismissed without prejudice.

IT IS SO ORDERED this 28th day of August, 2023.


UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

**REGINALD DUNAHUE
ADC #106911**

PLAINTIFF

V.

NO. 2:23-cv-00016-BSM-ERE

WILLIAM F. STRAUGHN, *et al.*

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedures for Filing Objections:

This Recommendation has been sent to United States District Judge Brian S. Miller. You may file written objections to all or part of this Recommendation. Any objections filed must: (1) specifically explain the factual and/or legal basis for the objection; and (2) be received by the Clerk of this Court within fourteen (14) days of the date of this Recommendation. If you do not object, you risk waiving the right to appeal questions of fact and Judge Miller can adopt this Recommendation without independently reviewing the record.

II. Discussion:

On January 23, 2023, Plaintiff Reginald Dunahue, an Arkansas Division of Correction ("ADC") inmate, filed a 15-page complaint with 100 pages of attachments. *Doc. 2*. Mr. Dunahue sued fourteen individuals.¹

¹ Mr. Dunahue's original complaint alleged that: (1) Defendants Shipman, Culclager, and Jackson retaliated against him for his use of the grievance procedure by transferring him to the

III. Discussion:

A. The PLRA Makes Exhaustion Mandatory

The Prison Litigation Reform Act (“PLRA”) requires the Court to dismiss any claim raised that was not fully exhausted before filing a civil lawsuit under 42 U.S.C. § 1983. See 42 U.S.C. § 1997e(a) (“No action shall be brought with respect to prison conditions . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”); *Johnson v. Jones*, 340 F.3d 624, 627 (8th Cir. 2003) (holding an inmate must exhaust all available administrative remedies before filing suit, and “[i]f exhaustion was not completed at the time of filing, dismissal is mandatory”).

Importantly, “it is the prison’s requirements, and not the PLRA, that define the boundaries of proper exhaustion.” *Jones v. Bock*, 549 U.S. 199, 218 (2007). Thus, the PLRA required Mr. Dunahue to satisfy the ADC’s requirements for raising and exhausting the claims he is asserting in this lawsuit *before* bringing this action.²

B. The ADC’s Exhaustion Policy

At all times relevant to this action, the ADC provided a three-step administrative grievance process through ADC Administrative Directive 19-34.

² There are exceptions to the exhaustion requirement, but they are few and narrow in scope. For example, an inmate’s subjective belief about the futility of the exhaustion process or his misunderstanding about the process are irrelevant in determining whether administrative procedures are available. *Chelette v. Harris*, 229 F.3d 684, 688 (8th Cir. 2000).

Doc. 33-5. The written policy advises inmates they must exhaust their administrative remedies at all levels before filing a § 1983 lawsuit. *Id. at 19*.

To fully and properly exhaust administrative remedies, an ADC prisoner must file: (1) a “Step One” informal resolution raising the claim with the designated unit-level problem-solver within fifteen calendar days of the incident; (2) a “Step Two” formal unit-level grievance raising that claim with the Warden within three business days of the denial of the informal resolution; and (3) an appeal to the appropriate ADC Chief Deputy/Deputy/Assistant Director within five working days of the Warden’s decision. *Id. at 6-14*. The grievance process ends when the appropriate Chief Deputy/Deputy/Assistant Director renders a written decision or rejection of an appeal. *Id. at 13*.

Thus, to properly exhaust his administrative remedies with respect to his claims against Defendants, Mr. Dunahue was required to present each claim in a timely filed grievance and to complete all three steps of the ADC’s grievance process before initiating this lawsuit. See *Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (explaining that administrative exhaustion “means using all steps that the agency holds out and doing so *properly* (so that the agency addresses the issues on the merits)”) (emphasis in original).

C. Mr. Dunahue's Grievance History:

In support of their motion, Defendants submit the declaration of ADC Inmate Grievance Supervisor Terri Grigsby-Brown. *Doc. 33-2*. Ms. Grigsby Brown's declaration states that Mr. Dunahue filed two grievances related to his October 2022 transfer to the East Arkansas Max Unit: (1) EAM-22-2238; and (2) EAM-22-2135. *Id. at 6*.

1. Grievance Number EAM-22-2238

On November 10, 2022, Mr. Dunahue submitted grievance EAM-22-2238 in which he alleges that: (1) Defendant Jackson admitted that the EARU3 lacks adequate security; and (2) Defendant Culclager transferred him to EARU because Mr. Dunahue notified "news stations" about the use of illegal drugs by inmates in the Tucker Max Unit. *Doc. 33-3 at 7*. Mr. Dunahue did *not* allege that he was transferred to the EARU/EAMU in retaliation for his use of the inmate grievance procedure. Accordingly, grievance EAM-22-2238, although fully exhausted, is not relevant to Mr. Dunahue's pending retaliation claim.

2. Grievance Number EAM-22-2135

On October 26, 2022, Mr. Dunahue submitted EAM-22-2135 in which he complains that officials at the EARU do not provide inmates forks and spoons with

³ In his grievance, Mr. Dunahue specifically references the EARU, although Mr. Dunahue was specifically transferred to the EAMU.

their meals. *Doc. 33-4 at 7*. Although Mr. Dunahue fully exhausted grievance EAM-22-2135, it is not relevant to his pending retaliation claim.

D. Mr. Dunahue's Response to Defendants' Motion:

In his response to Defendants' motion, Mr. Dunahue states that the Deputy Director has not returned "20 of my 1st Amendment right violation grievances I sent him last year." *Doc. 44 at 1*. Although Mr. Dunahue claims that the Deputy Director failed to return over 20 grievance decisions to him, Mr. Dunahue fails to present copies of any unit level, or "Step One," grievance papers relating to his pending retaliation claim.⁴ Nor does Mr. Dunahue present any other evidence to dispute Defendants' evidentiary showing that he failed to fully exhaust his administrative remedies regarding his First Amendment or retaliation claim.

On this record, no genuine issue of material fact exists on the threshold exhaustion question. Defendants are entitled to summary judgment on Mr. Dunahue's retaliation claim.

⁴ In response to Defendants' motion, Mr. Dunahue references several grievance papers that he attached to his original complaint. *Doc. 44 at 3*. However, the grievance papers Mr. Dunahue references do not relate to his pending First Amendment claim. Rather, those grievances relate to: (1) an October 2022 PREA investigation (*Doc. 2 at 21-23*); (2) Defendant Jackson's failure to provide Mr. Dunahue adequate treatment and housing after he reported sexual abuse at the facility; and (3) Defendants' failure to provide inmates adequate shaving products, eating utensils, access to the shower, outdoor recreation, thermal underwear, and nail clippers. *Id. at 47-50*. These documents, although irrelevant to Mr. Dunahue's retaliation claim, suggest that Mr. Dunahue has a practice of holding on to unit level grievance papers, undercutting his allegation that grievance papers related to his retaliation claim were not returned to him.

IV. Conclusion:

IT IS THEREFORE RECOMMENDED THAT:

1. Defendants' motion for summary judgment (*Doc. 33*) be GRANTED.
2. Mr. Dunahue's First Amendment claim be DISMISSED, without prejudice, based on his failure to fully exhaust his administrative remedies.
3. The Clerk be instructed to close this case.

Dated 8 August 2023.


UNITED STATES MAGISTRATE JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**