

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CHRIS MYERS,

Plaintiff,

vs.

CIVIL ACTION  
No. 05-3223-GTV

SONDRA ELLIOTT, et al.,

Defendants.

ORDER

This matter is before the court on a civil rights complaint filed by a prisoner at the Leavenworth, Kansas, facility operated by the Corrections Corporation of America (CCA). Plaintiff proceeds pro se and seeks leave to proceed in forma pauperis. He alleges defendants interfered with his mail and denied him access to the courts.<sup>1</sup>

The Prison Litigation Reform Act, signed into law on

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It appears plaintiff's primary complaint is that his legal mailings addressed to the clerk of this court in the Kansas City, Kansas, division have not been received. The court takes notice, however, that the plaintiff's filings, approximately 18 cases to date, have been mailed to the Kansas City division and transferred to the Topeka division office for docketing.

April 26, 1996, amended 42 U.S.C. 1997e(a) to provide that "[N]o action shall be brought with respect to prison conditions under ... any ... Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

The court has examined the record and finds plaintiff has attached 6 grievance forms dated April 13, 2005. The complaint form is dated April 13, 2005 (Doc. 1, p. 5); however, the envelope was postmarked May 11, 2005 (*id.*, Attach.). Because the grievance forms do not reflect an answer from the grievance officer or any request for review by the warden, the court concludes the plaintiff has failed to demonstrate his use of available grievances, as contemplated by 42 U.S.C. 1997e(a). Accordingly, the court will dismiss this matter without prejudice to allow plaintiff to fully use the grievance procedure.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice.

IT IS FURTHER ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is denied.

A copy of this order shall be transmitted to the plaintiff.

**IT IS SO ORDERED.**

Dated at Kansas City, Kansas, this 24<sup>th</sup> day of May, 2005.

/s/ G. T. VanBebber

G. T. VANBEBBER

United States Senior District Judge