

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ROY CHESTER ROWE,

Plaintiff,

vs.

CIVIL ACTION  
No. 06-3160-SAC

FRANK DENNING, et al.,

Defendants.

ORDER

This matter comes before the court on a civil rights action filed pursuant to 42 U.S.C. § 1983 by a prisoner in the custody in the Johnson County Adult Detention Center. By an order entered on June 27, 2006, the court directed plaintiff to supplement the record on or before July 17, 2006, to show his use of the full administrative grievance procedure in compliance with 42 U.S.C. § 1997e(a).<sup>1</sup>

Plaintiff has filed a motion for an extension of time (Doc. 13) in order to complete the grievance procedure. Because §

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<sup>1</sup>

This section provides: "[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."

1997e(a) requires the exhaustion of available administrative remedies prior to bringing a legal action concerning a prisoner's conditions of confinement, this matter is premature. See Fitzgerald v. Corrections Corp. Of America, 403 F.3d 1134, 1140-41 (10<sup>th</sup> Cir. 2005)(dismissal ordinarily required where a litigant fails to complete exhaustion of administrative remedies before bringing suit)(citations omitted). Because it is clear the plaintiff has not yet pursued his claims through the full grievance procedure, the court concludes this matter must be dismissed to allow him to do so.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice to permit plaintiff to exhaust available administrative remedies.

IT IS FURTHER ORDERED plaintiff's motions for leave to proceed in forma pauperis (Doc. 2), for the appointment of counsel (Doc. 5), for subpoenas (Docs. 6, 7, and 8), for orders (Docs. 9, 10, 11, 12, and 14), and for an extension of time (Doc. 13) are denied as moot.

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

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 14<sup>th</sup> day of July, 2006.

S/ Sam A. Crow

SAM A. CROW

United States Senior District Judge