

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTWAIN D. SMITH,

Petitioner,

vs.

CIVIL ACTION
No. 12-3156-RDR

CLAUDE MAYE,

Respondent.

MEMORANDUM AND ORDER

This matter is before the court on a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241. Petitioner is incarcerated at the United States Penitentiary, Leavenworth, Kansas, and challenges his future restraint under a sentence imposed in the U.S. District Court for the Eastern District of Missouri. Petitioner claims that judgment is void.

Petitioner advises the court that he did not exhaust administrative remedies before commencing this action. See 28 C.F.R. §§ 542.10-542.19 (outlining the Bureau of Prisons' administrative remedies).

A prisoner must exhaust available administrative remedies before pursuing federal habeas corpus relief under § 2241. See *Garza v. Davis*, 596 F.3d 1198, 1203 (10th Cir.2010); *Williams v.*

O'Brien, 792 F.2d 986, 987 (10th Cir. 1986). The exhaustion requirement is met "by 'using all steps that the agency holds out.'" *Jones v. Davis*, 366 Fed.Appx. 942, 944 (10th Cir. 2010)(quoting *Woodford v. Ngo*, 548 U.S. 81, 90 (2006)). Thus, as set forth in the governing regulations, petitioner must present his claim first through an attempt at informal resolution, and, if he is not satisfied, by presenting a formal remedy request to the institution, followed by administrative appeals at the regional and national levels.

Because petitioner has failed to pursue these steps, the court will dismiss this matter without prejudice to allow him to do so.

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

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

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 24th day of July, 2012.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States Senior District Judge