

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6544

KEVIN J. KENDRICK,

Plaintiff - Appellant,

versus

CARROL TYNDALL; DENNIS R. BIDWELL, Warden;
KATHLEEN HAWK,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. J. Frederick Motz, Chief District Judge. (CA-97-299-JFM)

Submitted: August 28, 1997

Decided: September 17, 1997

Before WILKINS, WILLIAMS, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Kevin J. Kendrick, Appellant Pro Se. Lynne Ann Battaglia, United States Attorney, Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's orders dismissing his 42 U.S.C. § 1983 (1994) complaint without prejudice for failure to exhaust administrative remedies, and denying his motion for reconsideration. The district court properly required exhaustion of administrative remedies under 42 U.S.C.A. § 1997e(a) (West Supp. 1997). Because Appellant did not demonstrate to the district court that he had exhausted administrative remedies or that such remedies were not available, the court's dismissal of the action, without prejudice, was not an abuse of discretion. Appellant submitted with his informal brief materials which may support his contention that he exhausted his administrative remedies. However, these materials were not presented to the district court and will not be considered in the first instance by this court. We therefore deny Appellant's motion for production of documents and affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED