

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6330

CLYDE BLANKENSHIP,

Plaintiff - Appellant,

versus

ROGER HUTCHINGS; DAVID T. FLAHERTY; THE CALD-
WELL COUNTY BOARD OF COMMISSIONERS,

Defendants - Appellees.

Appeal from the United States District Court for the Western Dis-
trict of North Carolina, at Statesville. Graham C. Mullen, District
Judge. (CA-96-167-5-MU)

Submitted: July 22, 1998

Decided: August 6, 1998

Before ERVIN, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Clyde Blankenship, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Clyde Blankenship appeals the district court's order dismissing his 42 U.S.C.A. § 1983 (West 1994 & Supp. 1998) complaint for failure to exhaust administrative remedies. The district court properly required exhaustion of administrative remedies under 42 U.S.C.A. § 1997e(a) (West Supp. 1998). Because Blankenship 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 was not an abuse of discretion. We note that dismissal with prejudice was appropriate in this case because the claims Blankenship seeks to assert are barred by the applicable limitations period. See N.C. Gen. Stat. § 1-52(5) (Supp. 1997); Wilson v. Garcia, 471 U.S. 261, 266-68 (1985). Accordingly, we affirm on the reasoning of the district court. See Blankenship v. Hutchings, No. CA-96-167-5-MU (W.D. N.C. Jan. 21, 1998). We deny Appellant's motion for appointment of counsel. 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