

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-3029

Thuworn Shields,

Appellant,

v.

Grant Harris, Warden, Arkansas
Department of Correction; CO-I
Jackson, Disciplinary Hearing Officer,

Appellees.

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* Appeal from the United States
* District Court for the
* Eastern District of Arkansas.
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* **[UNPUBLISHED]**
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Submitted: March 7, 2000
Filed: March 14, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Arkansas inmate Thuworn Shields brought this 42 U.S.C. § 1983 action, asserting various claims arising out of a stay in disciplinary segregation, plus a claim that treatment for his hemorrhoids had been delayed. Defendants twice moved for dismissal, arguing Shields failed to exhaust available administrative remedies. The district court¹ dismissed Shields's complaint without prejudice because he failed to

¹The HONORABLE JAMES M. Moody, United States District Judge for the Eastern District of Arkansas.

respond to the second motion to dismiss within thirty days, despite the court's warning that he risked dismissal if he failed to respond. Shields appeals, arguing he in fact responded but his response was not timely filed in the district court. Shields should have raised this issue in the district court by moving for reconsideration of the dismissal, instead of raising it for the first time on appeal. On this record, the district court did not abuse its discretion by dismissing the complaint without prejudice. Its judgment is affirmed.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.