

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3591

Michael Dean Woods,	*	
	*	
Appellant,	*	
	*	
v.	*	Appeal from the United States
	*	District Court for the
Randy Oldenburger, Lieutenant at ASP;	*	Northern District of Iowa.
Jake Noonan, Security Director at ASP;	*	
John Ault, Warden,	*	[UNPUBLISHED]
	*	
Appellees,	*	

Submitted: January 4, 2009
Filed: January 23, 2009

Before MELLOY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Michael Dean Woods appeals the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action against three employees of the Iowa prison system. After careful de novo review, *see Johnson v. Blaukat*, 453 F.3d 1108, 1112 (8th Cir. 2006), we conclude that dismissal was proper because defendants established

¹Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

that Woods failed to exhaust his administrative remedies as required under 42 U.S.C. § 1997e(a). Accordingly, we affirm, see 8th Cir. R. 47B, but modify the dismissal to clarify that it is without prejudice, see Calico Trailer Mfg. Co. v. Ins. Co. of N. Am., 155 F.3d 976, 978 (8th Cir. 1998) (affirming dismissal for failure to exhaust administrative remedies, but modifying to be without prejudice). We also deny Woods's motion for the appointment of counsel.
