

**United States Court of Appeals**  
**For the Eighth Circuit**

---

No. 15-1241

---

Billy Mack Nichols, Jr.,

*Plaintiff - Appellant,*

v.

Sonya A. Pepper-Davis, Dr., Tucker Max Security Unit Infirmary; Ava Green-McDowell, Infirmary Manager/Health Services Administrator, Tucker Max Security Unit; Marvin Hughey, Director of Nursing, Tucker Maxim Security Unit Infirmary; Belinda Jackson, Nurse,

*Defendants - Appellees.*

---

Appeal from United States District Court  
for the Eastern District of Arkansas - Pine Bluff

---

Submitted: June 12, 2015

Filed: June 22, 2015

[Unpublished]

---

Before SMITH, BOWMAN, and COLLOTON, Circuit Judges.

---

PER CURIAM.

Arkansas inmate Billy Nichols, Jr. appeals after the district court<sup>1</sup> dismissed his 42 U.S.C. § 1983 complaint without prejudice for failure to exhaust his administrative remedies, and denied his various motions. In this court, he has moved for appointed counsel, to strike appellees' brief, and for a preliminary injunction.

Upon careful de novo review, *see King v. Iowa Dep't of Corr.*, 598 F.3d 1051, 1052 (8th Cir. 2010), we conclude that the district court properly dismissed Nichols's complaint without prejudice because it was undisputed that he had not exhausted his administrative remedies at the time he filed suit, *see* 42 U.S.C. § 1997e(a); *Booth v. Churner*, 532 U.S. 731, 738 (2001); *Porter v. Sturm*, 781 F.3d 448, 452 (8th Cir. 2015); *Johnson v. Jones*, 340 F.3d 624, 627-28 (8th Cir. 2003). We further conclude that the district court properly denied Nichols's motion to amend his complaint, *see Silva v. Metro. Life Ins. Co.*, 762 F.3d 711, 719-20 (8th Cir. 2014), and properly denied his motions for injunctive relief upon dismissing the complaint.<sup>2</sup> We note that a new case has been opened on Nichols's behalf in the district court, and that he may continue to litigate these issues, including whether a preliminary injunction should be entered, in that action. Accordingly, we affirm. *See* 8th Cir. R. 47B. In addition, Nichols's motions on appeal are denied.

---

<sup>1</sup>The Honorable Kristine G. Baker, United States District Judge for the Eastern District of Arkansas, adopting the reports and recommendations of the Honorable Beth Deere, United States Magistrate Judge for the Eastern District of Arkansas.

<sup>2</sup>The denial of Nichols's motion for a temporary restraining order is not reviewable on appeal. *See Hamm v. Groose*, 15 F.3d 110, 112-13 (8th Cir. 1994).