

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

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No. 99-1726

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Tim Burton,

Appellant,

v.

Larry Norris, Director, Arkansas  
Department of Correction; David  
White, Warden, Tucker Unit,  
Arkansas Department of Correction,

Appellees.

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Appeal from the United States  
District Court for the  
Eastern District of Arkansas.

**[UNPUBLISHED]**

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Submitted: July 30, 1999  
Filed: August 13, 1999

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Before McMILLIAN, LOKEN, and MURPHY, Circuit Judges.

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PER CURIAM.

Tim Burton appeals the district court's<sup>1</sup> order dismissing without prejudice his 42 U.S.C. § 1983 action against various prison officials for failure to exhaust his

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<sup>1</sup>The HONORABLE ELSIJANE TRIMBLE ROY, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the HONORABLE JOHN F. FORSTER, JR., United States Magistrate Judge for the Eastern District of Arkansas.

administrative remedies. After carefully reviewing the record, we conclude Burton was an Arkansas inmate when he commenced this action, he did not rebut the defendants' showing that he started but failed to exhaust available remedies within the correctional facility, and therefore the district court's dismissal was consistent with 42 U.S.C. § 1997e(a). Accordingly, we affirm. See 8th Cir. R. 47A(a).

A true copy.

Attest:

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