

May 25, 2010

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

TENTH CIRCUIT

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BILLY JOE WINROW,

Plaintiff - Appellant,

v.

JUSTIN JONES, Director; WALTER  
DINWIDDIE, Warden; JAMES  
LOWMAN, employee; JACK  
LEMONS, employee; SGT. REEVES,  
employee,

Defendants - Appellees.

No. 10-5019

(N.D. Oklahoma)

(D.C. No. 4:08-CV-00761-JHP-TLW)

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**ORDER AND JUDGMENT\***

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Before **HARTZ, ANDERSON, and TYMKOVICH**, Circuit Judges.

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Billy Joe Winrow, an Oklahoma state prisoner proceeding pro se, appeals the dismissal of his civil-rights claim under 42 U.S.C. § 1983 against various personnel of the Oklahoma Department of Corrections. The United States District Court for the Northern District of Oklahoma ruled that his claims were barred by

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\*After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

his failure to exhaust his administrative remedies. *See* 42 U.S.C. § 1997e(a). We have jurisdiction under 28 U.S.C. § 1291.

We see no error in the cogent decision by the district court. As we understand Mr. Winrow's brief on appeal, the essence of his argument is that there were no administrative remedies to pursue because the prison informed him (apparently incorrectly) in its response to a request to staff (RTS) that the matter was the subject of litigation and therefore could not be considered. We reject the argument. First, Mr. Winrow does not explain why he could not have pursued the denial of his RTS by filing a grievance through proper prison procedures. Second, the record establishes that he did not misunderstand the response to his RTS as barring prison administrative remedies; even after that response, he repeatedly submitted grievances and requests to staff (albeit improperly) regarding the same incident.

We AFFIRM the judgment below.

ENTERED FOR THE COURT

Harris L Hartz  
Circuit Judge