

UNITED STATES COURT OF APPEALS

September 27, 2021

TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

DANIEL LAMONT JOHNSON,

Plaintiff - Appellant,

v.

MARTY GARRISON, Davis
Correctional Facility Investigator,

Defendant - Appellee,

BERRY, Unit Manager, Davis
Correctional Facility; TERRI
UNDERWOOD, Grievance
Coordinator,

Defendants.

No. 21-7010
(D.C. No. 6:18-CV-00152-RAW-SPS)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before **BACHARACH, MURPHY, and CARSON**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

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.

Proceeding *pro se*, Oklahoma state prisoner Daniel Johnson appeals the district court's dismissal of the Fourteenth Amendment due process claim he brought against defendant Marty Garrison pursuant to 42 U.S.C. § 1983. Although Johnson's complaint contained numerous allegations against multiple defendants, the only remaining claim is the due process claim "against defendant Garrison based on grievance No. 2016-1001-00106-G." *Johnson v. Garrison*, 805 F. App'x 589, 595 (10th Cir. 2020). In this grievance, Johnson asserted Garrison failed to thoroughly and impartially investigate allegations he made about violations of the Prison Rape Elimination Act ("PREA").

To the extent Johnson's due process claim is premised on processes afforded him under the PREA, the district court correctly concluded Johnson has failed to show the PREA provides an inmate with a private right of action, enforceable under § 1983, to challenge that process. Alternatively, Johnson's § 1983 claim could be construed as an assertion his right to due process was violated by the mishandling of his prison grievance against Garrison. Again, however, Johnson has failed to show that he has a protected liberty interest in the grievance procedures at the facility in which he was housed. See *Henderson v.*

Fisher, 767 F. App'x 670, 675 (10th Cir. 2019) (unpublished disposition cited for persuasive value).

Because Johnson has failed to state a claim upon which relief may be granted, the district court's judgment dismissing Johnson's due process claim centered on defendant Garrison's handling of his PREA complaint is **affirmed**.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge