

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted June 30, 2023*

Decided July 5, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-1520

MANSOUR MOHAMMAD,
Plaintiff-Appellant,

v.

JACQUELINE LASHBROOK, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 19-cv-756-RJD

Reona J. Daly,
Magistrate Judge.

ORDER

Mansour Mohammad, an Illinois inmate, appeals a summary judgment order against him based on his failure to exhaust administrative remedies with respect to his claims that conditions at his prison violated the Eighth Amendment. Because the

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

undisputed facts show that Mohammad did not exhaust the prison's administrative remedies in the time and manner required, we affirm.

Under the grievance procedures of the Illinois Department of Corrections, an inmate must first try to resolve a grievance with his institutional counselor. If the grievance is not resolved by the counselor, the inmate may submit it to a grievance officer explaining "what happened, when, where and the name of each person who is the subject of or who is otherwise involved in the complaint." 20 ILL. ADMIN. CODE § 504.810(c). The officer then reviews the grievance and, within two months if feasible, issues a report of findings and recommendations to the chief administrative officer (generally, the warden), who issues a written decision to the inmate. *Id.* § 504.830(e). The inmate then has 30 days to appeal that decision to the administrative review board; the appeal must include copies of the responses of the grievance officer and warden. *Id.* § 504.850(a). An inmate may request an emergency review of a grievance by the warden, but if the warden determines it is not an emergency, the inmate must resubmit the grievance using the standard process. *Id.* § 504.840(c).

Between November 2016 and January 2019, Mohammad filed seven grievances related to conditions at Menard Correctional Center. Five were submitted to his institutional counselor, and two were submitted as emergency grievances, though the warden, Jacqueline Lashbrook, declined emergency review. Mohammad appealed each grievance to the administrative review board, but they were returned without review. A grievance from November 2016 was returned because it was not appealed within 30 days of Lashbrook's decision, and the other six were returned because Mohammad had not included the required responses from the grievance officer and warden.

Mohammad sued Menard officials for violating his constitutional rights. A magistrate judge, presiding by the parties' consent, *see* 28 U.S.C. § 636(c), screened his complaint, *see id.* § 1915A. The court allowed him to proceed on four claims against Lashbrook, three correctional officers, and a dietary officer. Mohammad alleged that, due to prison overcrowding, he was (1) housed in extreme temperature conditions, (2) not provided cleaning supplies, (3) served expired and otherwise unsafe food, and (4) denied adequate winter boots.

Lashbrook and the three correctional officers moved for summary judgment arguing that Mohammad had not exhausted his administrative remedies before filing suit, as required by the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(a). The Act provides that "[n]o action shall be brought with respect to prison conditions under section 1983 ... until such administrative remedies as are available are exhausted." *Id.*

To exhaust administrative remedies, an inmate must file grievances and appeals in the place, at the time, and in the manner that the prison requires. *Woodford v. Ngo*, 548 U.S. 81, 87 (2006) (citing *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002)). A remedy is considered not “available” when its requirements are opaque, or prison officials improperly prevent a prisoner from pursuing it. *Ross v. Blake*, 578 U.S. 632, 643–44 (2016).

The court held an evidentiary hearing to determine whether Mohammad had exhausted his administrative remedies. *See Pavey v. Conley*, 544 F.3d 739, 742 (7th Cir. 2008). At the hearing, Mohammad testified that he had properly utilized the grievance process. Regarding his non-emergency grievances, Mohammad stated that he “immediately” resubmitted them to a grievance officer after they were denied by his counselor, but prison officials had returned them without a response from the grievance officer or warden. As for the two emergency grievances, because Lashbrook declined to expedite them, Mohammad testified that he believed that her decision was final, and so he sent those grievances directly to the administrative review board instead of starting the grievance process from the beginning.

Concerning his grievance from November 2016, Mohammad claimed that upon his arrival at Menard he was provided only one bed sheet and was not issued a laundry bag or winter boots. His counselor responded that a laundry bag would be provided, but that each inmate receives only one bed sheet, and boots were “for workers only.” Mohammad grieved the issue through the administrative process and received a response from Lashbrook denying the grievance. Mohammad signed the appeal section of the form three weeks later, but the administrative review board did not receive it for another two weeks. The administrative review board denied the appeal as untimely because it was not received within 30 days of Lashbrook’s response.

Grievance Officer Kelly Pierce also testified. According to Pierce, each grievance that is reviewed by a counselor is logged in an inmate’s “cumulative counseling summary,” and the inmate is sent a receipt. After a counselor’s initial review, the original grievance is returned to the inmate with a response. The inmate may appeal the counselor’s decision by submitting it to a grievance officer for second-level review. Any grievance submitted to a grievance officer is logged again and another receipt is sent. Pierce explained that prison records showed Mohammad had filed the non-emergency grievances with his counselor, but none had been logged for second-level review, and each one lacked a grievance officer’s response. Pierce also said that one of Mohammad’s emergency grievances had not been logged for review at all, and the other had been

reviewed only by his counselor. Finally, Pierce testified that the grievance office does not track the date an inmate sends an appeal to the administrative review board.

The court entered judgment in favor of Lashbrook and the correctional officers, concluding that Mohammad failed to exhaust his remedies before filing suit. The court did not find credible Mohammad's testimony that he had submitted the non-emergency grievances to a grievance officer for second-level review because it was "unclear" and conflicted with Pierce's testimony and prison records showing that the grievances were not logged. The court also found that Mohammad had not exhausted the two emergency grievances because he admitted that he had not submitted them through the standard process after Lashbrook declined to expedite them.

The court found that Mohammad timely appealed to the administrative review board the November 2016 grievance. The court credited Mohammad's testimony that he submitted the appeal within 30 days of Lashbrook's written rejection, and the defendants had not explained the two-week delay in its receipt by the administrative review board. Nevertheless, the court concluded that the grievance was not properly exhausted against any of the defendants because it did not name them as required.

The court also said that it would enter judgment for the dietary officer, Lloyd Hanna, unless Mohammad provided additional evidence that he had exhausted the one grievance related to his dietary concerns. Mohammad responded only that Hanna had not moved for summary judgment, so the court entered judgment for Hanna.

Mohammad appeals. We review the entry of summary judgment based on a failure to exhaust administrative remedies de novo and factual findings for clear error. *Ramirez v. Young*, 906 F.3d 530, 533 (7th Cir. 2018).

Mohammad first argues that summary judgment for the defendants was improper because they rendered the grievance procedures unavailable. Specifically, he says that prison officials refused to respond to his non-emergency grievances, which prevented him from appealing their denials through the administrative process.

But the court did not err in finding that Mohammad's testimony on this point was not credible. Although Mohammad testified that he never received responses from a grievance officer after he submitted the non-emergency grievances for second-level review, the cumulative counseling summary undermines his account. The counseling summary reveals that the grievances were logged for review with Mohammad's counselor but were never logged for second-level review with a grievance officer. When

the administrative review board rejected the appeals for failing to include the responses from the second level of review, Mohammad never resubmitted the appeals with the required responses. Accordingly, Mohammad failed to exhaust his administrative remedies as to the non-emergency grievances.

Regarding the two emergency grievances, Mohammad now argues that he tried to resolve them through the standard process but did not receive a response from a grievance officer. But this assertion conflicts with his own testimony at the *Pavey* hearing and is not supported by the counseling summary. Mohammad testified that he believed that Lashbrook's denial of emergency review was a final decision he could directly appeal to the administrative review board. But that is incorrect. An inmate must resubmit grievances deemed a non-emergency by the warden through the standard grievance process. *Williams v. Wexford Health Sources, Inc.*, 957 F.3d 828, 832 (7th Cir. 2020); 20 ILL. ADMIN. CODE § 504.840(c). And Mohammad admitted that he did not do so.

Next, Mohammad contends that he exhausted the November 2016 grievance, for which he followed the appropriate procedures. He argues that Lashbrook and one of the named correctional officers knew about his request for additional sheets and winter boots even though he did not name them in the grievance. To be sure, a prisoner "is not required to know the name of the prison employee whom he's complaining about," but he must include as much descriptive information about the individual and the event as possible so that prison officials are alerted to the target of the grievance. *Roberts v. Neal*, 745 F.3d 232, 235–36, (7th Cir. 2014); see 20 ILL. ADMIN. CODE § 504.810(c). But the court correctly concluded that Mohammad failed to exhaust his remedies on this claim against these defendants because the grievance does not identify any of the defendants or describe any events in which they would have been personally involved.

Finally, Mohammad challenges the court's entry of summary judgment for Hanna. But we see no error. A district court may enter summary judgment without a motion if the party against whom it is entered has notice that the court is considering summary judgment and is given an opportunity to respond. *Golden Years Homestead, Inc. v. Buckland*, 557 F.3d 457, 461–62 (7th Cir. 2009). The court said that it would enter judgment in Hanna's favor absent additional evidence showing that Mohammad had exhausted his administrative remedies. Mohammad responded, but he failed to furnish any further evidence.

AFFIRMED