

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

DAVID L. WATSON,)	
)	
Plaintiff,)	
v.)	
)	
DELAWARE CORRECTIONAL,)	C.A. No. 02C-03-127
CENTER, ROBERT SNYDER,)	
LAWRENCE MCGUIGAN,)	
CHARLES S. CUNNINGHAM,)	
JOSEPH BELANGER,)	
DELAWARE MEDICAL)	
SERVICES, INC.,)	
GEORGIA L. PERDUE,)	
)	
Defendants.)	

Date Submitted: April 30, 2002

Date Decided: May 22, 2002

ORDER

DISMISSED

David L. Watson (*pro se*), Smyrna, Delaware, Plaintiff.

Richard W. Hubbard, Esq. of the State of Delaware Department of Justice, Wilmington, Delaware, Attorney for the State Defendants.

Kevin J. Connors, Esq. of Marshall, Dennehey, Warner, Coleman & Goggin, Wilmington, Delaware, Attorney for Correctional Medical Services, Inc. (incorrectly designated as "Delaware Medical Services, Inc.") and Georgia L. Perdue.

On this 22nd day of May 2002, upon consideration of evidence submitted at the bench trial, and legal memorandum filed by both sides, it appears to the Court that:

(1) David L. Watson (“Plaintiff”) is a prison inmate at the Delaware Correctional Center (“DCC”) in Smyrna, Delaware. Plaintiff alleges that he has chronic arthritis for which he takes Naprosyn, an anti-inflammatory drug. Plaintiff contends that his doctor informed him to take Naprosyn one hour before or one hour after a meal to prevent stomach problems, such as an ulcer, from occurring. Plaintiff contends that the DCC’s blanket drug policy, requiring inmates to take their medications at a scheduled time and under medical supervision, caused him physical and emotional pain and deliberate indifference to Plaintiff’s medical needs. Thus, Plaintiff filed this suit on March 12, 2002 alleging a violation of the Eight Amendment of the United States Constitution, making this an action pursuant to 42 U.S.C. § 1983.

(2) The Prison Litigation Reform Act of 1995 (“PLRA”), 42 U.S.C. § 1997e(a), states in relevant part:

No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

The United States Supreme Court recently held:

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the PLRA's exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes, and whether they allege excessive force or some other wrong.

Porter v. Nussle, 534 U.S. 516, 122 S. Ct. 983, 992 (2002). Thus, the PLRA mandates the dismissal of an action where a prison has failed to file a grievance and/or exhaust administrative remedies within the prison system.

(3) DCC has a formal grievance system. Plaintiff did not file a grievance on the subject matter of this lawsuit before commencing this action.¹ Thus, Plaintiff has failed to exhaust his administrative remedies.

For the forgoing reasons the complaint is hereby **DISMISSED**.

IT IS SO ORDERED.

ALFORD, J.

Original: Prothonotary's Office - Criminal Div.

¹ Plaintiff previously filed a medical grievance with the DCC Grievance Office, thus he knew that a grievance system existed.