

United States Court of Appeals
For the Eighth Circuit

No. 19-1293

Mark Daniel Crowley,

Plaintiff - Appellant,

v.

Magez D. Nailor, Sergeant, Cummins Unit, ADC (Originally named as Nailor);
LaToya Woods, Corporal, Cummins Unit, ADC (Originally named as Woods);
Kenneth Starks, Captain, Cummins Unit, ADC (Originally named as Stark);
William Straughn, Warden, Cummins Unit, ADC (Originally named as Straughn);
Patrick Pierre, Sergeant, Cummins Unit, ADC (Originally named as Pierre),

Defendants - Appellees.

Appeal from United States District Court
for the Eastern District of Arkansas - Pine Bluff

Submitted: October 16, 2019

Filed: November 4, 2019

[Unpublished]

Before COLLOTON, SHEPHERD, and ERICKSON, Circuit Judges.

PER CURIAM.

Arkansas inmate Mark Crowley appeals an order and judgment of the district court¹ dismissing his action under 42 U.S.C. § 1983 for failure to exhaust administrative remedies. We agree that Crowley failed to exhaust his claims before bringing suit as required by 42 U.S.C. § 1997e(a). Whether Crowley's grievances were deemed emergent or non-emergent, the prison's policy allowed inmates to appeal even if they received no response to their grievances. As Crowley did not appeal after his grievances went unanswered, and he was not prevented from doing so, he did not exhaust the process. *See Porter*, 781 F.3d at 452. Crowley's mistaken belief that an appeal of an unanswered grievance could be submitted only on a grievance decision form did not show that the process was unavailable to him. He offered no evidence to the district court that prison officials prevented him from appealing. *See Sergeant v. Norris*, 330 F.3d 1084, 1085-86 (8th Cir. 2003) (*per curiam*); *Chelette v. Harris*, 229 F.3d 684, 688 (8th Cir. 2000). The judgment is affirmed. *See* 8th Cir. R. 47B.

¹The Honorable Kristine G. Baker, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Beth Deere, United States Magistrate Judge for the Eastern District of Arkansas.