

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Jose Smart v. Steven Johnson et al.

Smart v. Johnson · No. 24-cv-1225-bhl · Decided February 27, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin granted Defendants’ motion for summary judgment in Jose Smart’s 42 U.S.C. § 1983 and RLUIPA action. The court dismissed the case without prejudice because Smart failed to exhaust available administrative remedies before filing suit.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	February 27, 2026
DOCKET	24-cv-1225-bhl
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved for summary judgment in a prisoner civil-rights action based on failure to exhaust administrative remedies. Plaintiff did not respond, and the court deemed Defendants' factual assertions admitted under the applicable summary-judgment rules.
STANDARD OF REVIEW	Summary judgment is appropriate when the undisputed facts show that the movant is entitled to judgment as a matter of law. Under the applicable federal and local rules, uncontroverted proposed facts may be deemed admitted when the opposing party fails to respond.
PRECEDENTIAL VALUE	Unknown; unpublished district-court decision.
PARTIES	Jose Smart v. Steven Johnson et al.

TOPICS

- summary judgment
- prisoners rights
- first amendment
- civil rights
- civil procedure

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

religious liberty

QUESTIONS PRESENTED

1. Whether Defendants were entitled to summary judgment because Smart failed to exhaust available administrative remedies before filing the action.
2. Whether the action should be dismissed without prejudice for failure to exhaust administrative remedies.

HOLDINGS

1. Defendants were entitled to summary judgment because the undisputed facts established that Smart did not complete the available grievance process before filing suit.
2. The action was dismissed without prejudice because Smart filed suit before completing the administrative-exhaustion process.

KEY QUOTATIONS

“[A] suit filed by a prisoner before administrative remedies have been exhausted must be dismissed; the district court lacks discretion to resolve the claim on the merits, even if the prisoner exhausts intra-prison remedies before judgment.” (Decision and Order)

FACTUAL BACKGROUND

Smart, an incarcerated person at the Milwaukee Secure Detention Facility, alleged that Defendants violated his First Amendment free-exercise rights and RLUIPA by failing to provide Native American sweat lodge ceremonies and by requiring participants in pipe and drum ceremonies to purchase their own smoke pipe. Defendants established, through proposed findings of fact deemed admitted after Smart failed to respond, that Smart did not complete the grievance process before filing suit.

PROCEDURAL HISTORY

Smart filed an action under 42 U.S.C. § 1983 alleging violations of the First Amendment's Free Exercise Clause and RLUIPA. Defendants moved for summary judgment, asserting that Smart had not exhausted available administrative remedies before filing suit. After Smart failed to respond by the court-ordered deadline, the court treated Defendants' proposed facts as undisputed, granted summary judgment, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- *Perez v. Wis. Dep't of Corr.*, 182 F.3d 532, 535 (7th Cir. 1999)

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