

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION

Walter Lawrence Kenney v. Officer Kitchens

Kenney · No. 5:23-CV-509 (MTT) · Decided March 3, 2026

SUMMARY

The court denied Walter Lawrence Kenney’s motion for reconsideration of the order adopting a recommendation to grant the defendant judgment on the pleadings for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The court also denied Kenney’s motion for appointment of counsel, finding no exceptional circumstances because judgment had already been entered and no complex legal issues remained.

CASE DETAILS

COURT	United States District Court for the Middle District of Georgia, Macon Division
WRITING FOR THE COURT	Marc T. Treadwell
JURISDICTION	United States District Court for the Middle District of Georgia, Macon Division
DECIDED	March 3, 2026
DOCKET	5:23-CV-509 (MTT)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of an order adopting a magistrate judge's recommendation granting the defendant's motion for judgment on the pleadings, and separately moved for appointment of counsel. The district court denied both motions.
STANDARD OF REVIEW	A motion for reconsideration is evaluated under the extraordinary-remedy standard in Local Rule 7.6: intervening change in law, newly discovered evidence unavailable through due diligence, or clear error of law. The court reviewed the magistrate judge's recommendation de novo after vacating its prior clear-error review.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

motion for reconsideration

prisoners rights

section 1983

motion for judgment on the pleadings

civil procedure

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

constitutional law

QUESTIONS PRESENTED

1. Whether Kenney demonstrated an intervening change in law, newly discovered evidence, or clear error warranting reconsideration of the court's December 19, 2025 order.
2. Whether allegations of unconstitutional or inhumane prison conditions could overcome Kenney's failure to exhaust administrative remedies under the Prison Litigation Reform Act.
3. Whether exceptional circumstances warranted appointment of counsel in the § 1983 action after judgment had been entered.

HOLDINGS

1. Reconsideration was not warranted because the November 26, 2025 order Kenney sought to challenge had been vacated, and he did not demonstrate an intervening change in law, newly discovered evidence, or clear error of law as to the December 19, 2025 order.
2. Allegations concerning inhumane prison conditions, including newly alleged discrimination, could not overcome Kenney's failure to exhaust available administrative remedies before bringing the § 1983 action.
3. Appointment of counsel was not warranted because there is no absolute constitutional right to counsel in a § 1983 action, and no exceptional circumstances existed where judgment had already been entered and no complex legal issues remained.

KEY QUOTATIONS

“reconsideration of a previous order is an extraordinary remedy to be employed sparingly.” (ECF 56 at 1-4)

“No action shall be brought with respect to prison conditions under section 1983 of this title ... by a prisoner confined in any jail, prison, or correctional facility until such administrative remedies as are available are exhausted.” (ECF 56 at 2-4)

“There is, however, “no absolute constitutional right to the appointment of counsel” in a § 1983 lawsuit.” (ECF 58)

FACTUAL BACKGROUND

Kenney, a prisoner proceeding under 42 U.S.C. § 1983, alleged that he was subject to inhumane prison conditions and later alleged discrimination. The court determined that he had failed to exhaust available administrative remedies before filing suit, and judgment had already been entered against him when he sought reconsideration and appointment of counsel.

PROCEDURAL HISTORY

Magistrate Judge Charles H. Weigle recommended granting the defendant's motion for judgment on the pleadings because Kenney had failed to exhaust administrative remedies. The district court initially adopted the recommendation after clear-error review, later vacated that order after receiving Kenney's timely objection, conducted de novo review, and again adopted the recommendation and reentered judgment on December 19, 2025. The court then denied Kenney's motion for reconsideration and motion to appoint counsel.

DISPOSITION

other

CASES CITED

- Williams v. McNeil, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009)
- Washington v. United States, 243 F.3d 1299, 1301 (11th Cir. 2001)
- Bingham v. Nelson, 2010 WL 339806, at *1 (M.D. Ga. Jan. 21, 2010)
- McCoy v. Macon Water Authority, 966 F. Supp. 1209, 1222-23 (M.D. Ga. 1997)
- Poole v. Lambert, 819 F.2d 1025, 1028 (11th Cir. 1987) (per curiam)