

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Ali Cisse v. Amber J. Bliss, Jason Miller, and R. Pflueger

Cisse · No. 9:23-CV-0697 (MAD/ML) · Decided December 10, 2025

SUMMARY

The United States District Court for the Northern District of New York adopted a magistrate judge's Report and Recommendation concluding that Ali Cisse failed to exhaust administrative remedies for his retaliation claim against Defendant Jason Miller concerning an alleged negative informational report. The court granted Miller's motion for partial summary judgment and dismissed that retaliation claim.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Mae A. D'Agostino
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	December 10, 2025
DOCKET	9:23-CV-0697 (MAD/ML)
DISPOSITION	dismissed
PROCEDURAL POSTURE	District court review of a magistrate judge's Report and Recommendation recommending that Defendant Miller's motion for partial summary judgment be granted because Plaintiff failed to exhaust administrative remedies.
STANDARD OF REVIEW	Specific objections to a magistrate judge's report and recommendation are reviewed de novo; absent specific objections, the recommendation is reviewed for clear error. Summary judgment is appropriate when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- prisoners rights
- section 1983
- summary judgment
- affirmative defenses
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should review the magistrate judge's Report and Recommendation for clear error because Plaintiff filed no specific objections.
2. Whether Plaintiff exhausted available administrative remedies with respect to his retaliation claim based on the alleged negative informational report filed by Defendant Miller.
3. Whether the grievance process was unavailable to Plaintiff so as to excuse non-exhaustion.
4. Whether Defendant Miller was entitled to partial summary judgment on the retaliation claim.

HOLDINGS

1. When a party fails to make specific objections to a magistrate judge's Report and Recommendation, the district court reviews the recommendation for clear error.
2. Plaintiff failed to exhaust available administrative remedies regarding his retaliation claim based on the alleged negative informational report filed by Defendant Miller.
3. Plaintiff was not excused from exhausting administrative remedies because the Marcy Correctional Facility grievance process was available and functioning.
4. Defendant Miller was entitled to partial summary judgment on the retaliation claim arising from the alleged March 28, 2023 negative informational report, and that claim was dismissed.

KEY QUOTATIONS

"Marcy C.F. had a fully functioning inmate grievance process available to Plaintiff at all times relevant to this proceeding." (Dkt. No. 69 at 16)

"the grievance process was available to Plaintiff while he was housed at Marcy C.F." (Dkt. No. 69 at 16)

"Defendant Miller's motion for partial summary judgment related to Plaintiff's claim of retaliation related to the issuance of a negative informational report on March 28, 2023, is GRANTED" (Dkt. No. 69 at 17)

FACTUAL BACKGROUND

Cisse alleged that Defendant Jason Miller retaliated against him by issuing or filing a negative informational report on or about March 28, 2023. Although Cisse filed a grievance concerning the March 28 incident, the grievance did not mention the alleged negative informational report, and the evidence showed no appeal of the relevant grievance determination through the required administrative process. Testimony from prison grievance officials established that Marcy Correctional Facility had a functioning grievance process that Cisse had repeatedly used, including completing the three-step appeal process on approximately twelve occasions.

PROCEDURAL HISTORY

Plaintiff brought a 42 U.S.C. § 1983 action arising from his confinement at Marcy Correctional Facility and Auburn Correctional Facility. After earlier dismissals narrowed the action, Defendant Miller moved for partial

summary judgment on exhaustion grounds concerning Plaintiff's retaliation claim based on an alleged negative informational report. Magistrate Judge Lovric conducted an exhaustion hearing, issued a Report and Recommendation concluding that Plaintiff failed to exhaust, and recommended granting the motion. Because Plaintiff filed no specific objections, the district court reviewed the recommendation for clear error, adopted it in full, granted the motion, and dismissed the claim against Miller.

DISPOSITION

dismissed

CASES CITED

- Farid v. Bouey, 554 F. Supp. 2d 301, 307 (N.D.N.Y. 2008)
- O'Diah v. Mawhir, No. 08-CV-322, 2011 WL 933746, *1 (N.D.N.Y. Mar. 16, 2021)
- Chambers v. TRM Copy Ctrs. Corp., 43 F.3d 29, 36-37 (2d Cir. 1994)
- Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986)
- Govan v. Campbell, 289 F. Supp. 2d 289, 295 (N.D.N.Y. 2003)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Traguth v. Zuck, 710 F.2d 90, 95 (2d Cir. 1983)
- Lee v. Coughlin, 902 F. Supp. 424, 429 (S.D.N.Y. 1995)
- Cary v. Crescenzi, 923 F.2d 18, 21 (2d Cir. 1991)
- Johnson v. Annuci, No. 15-CV-3754, 2016 WL 3847745, *4 (S.D.N.Y. July 7, 2016)
- Freedom Holdings, Inc. v. Spitzer, 357 F.3d 205, 234 (2d Cir. 2004)
- Singh v. Lynch, 460 Fed. Appx. 45, 47 (2d Cir. 2012)

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