

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Davis v. New York

311 F. App'x 397 (2d Cir. 2009) · Decided February 20, 2009

SUMMARY

The Second Circuit affirmed the dismissal of Willie Davis's 42 U.S.C. § 1983 claims concerning alleged excessive force and an undelivered package. The court held that Davis failed to properly exhaust available administrative remedies for the excessive-force claim and that an adequate New York post-deprivation remedy precluded his due process claim concerning the lost property.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Dearie; Raggi; Raymond; Winter
JURISDICTION	Federal
DECIDED	February 20, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Willie Davis appealed the dismissal of his 42 U.S.C. § 1983 complaint alleging denial of due process in connection with an undelivered package and excessive force during a confrontation about the package.
STANDARD OF REVIEW	De novo review of the challenged dismissal and exhaustion ruling, with liberal construction of the pro se pleading.
PRECEDENTIAL VALUE	nonprecedential summary order
PARTIES	Willie Davis v. New York

TOPICS

prisoners rights

section 1983

civil rights

due process

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PRACTICE AREAS

civil rights

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QUESTIONS PRESENTED

1. Whether Davis's excessive-force claim was barred by the Prison Litigation Reform Act because he failed to properly exhaust available administrative remedies.

2. Whether Davis's due process claim concerning the undelivered package was barred under 42 U.S.C. § 1983 because New York provided an adequate post-deprivation remedy.

HOLDINGS

1. The excessive-force claim was properly dismissed because Davis failed to complete the available administrative review process and did not plead special circumstances excusing nonexhaustion.
2. The property-loss allegation could not support a due process claim under 42 U.S.C. § 1983 because New York provided an adequate post-deprivation remedy, regardless of whether the loss was intentional or negligent.

KEY QUOTATIONS

“proper exhaustion demands compliance with an agency’s deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings.” (at 399)

“The property loss alleged by Davis — whether intentional or negligent — will not support a due process claim redressable under § 1983 if “adequate state post-deprivation remedies are available.”” (at 400)

FACTUAL BACKGROUND

Davis, an incarcerated pro se plaintiff, alleged that prison officials failed to deliver a package mailed to him and used excessive force during a confrontation concerning the package. He received a Superintendent's decision denying his grievance concerning excessive force but did not appeal that decision to the Central Office Review Committee. He also alleged a property loss, for which New York provided a post-deprivation remedy through a Court of Claims action.

PROCEDURAL HISTORY

The district court dismissed Davis's complaint in its entirety. The court of appeals affirmed, holding that the excessive-force claim was barred by failure to properly exhaust available administrative remedies and that the property-loss due-process claim was barred because New York provided an adequate post-deprivation remedy.

DISPOSITION

affirmed

CASES CITED

- *Ruggiero v. County of Orange*, 467 F.3d 170, 173 (2d Cir. 2006)
- *Boykin v. KeyCorp*, 521 F.3d 202, 214 (2d Cir. 2008)
- *Porter v. Nussle*, 534 U.S. 516, 532 (2002)
- *Ortiz v. McBride*, 380 F.3d 649, 653 (2d Cir. 2004)
- *Hemphill v. New York*, 380 F.3d 680, 686, 691 (2d Cir. 2004)
- *Jones v. Bock*, 549 U.S. 199, 216 (2007)

- Woodford v. Ngo, 548 U.S. 81, 101 (2006)
- Ambase Corp. v. City Inv. Co. Liquidating Trust, 326 F.3d 63, 72 (2d Cir. 2003)
- Hudson v. Palmer, 468 U.S. 517, 533 (1984)
- Jackson v. Burke, 256 F.3d 93, 96 (2d Cir. 2001)
- Love v. Coughlin, 714 F.2d 207, 208-09 (2d Cir. 1983)

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