

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
WISCONSIN

Torry v. Weintraub, Palop, and Godiwalla

Torry · No. 25-CV-637-JPS · Decided March 11, 2026

SUMMARY

The court denied state defendants' motions for summary judgment based on failure to exhaust administrative remedies and for judgment on the pleadings in an inmate's Eighth Amendment deliberate-indifference medical-care action. The court held that prison officials improperly rejected the plaintiff's grievance concerning an ongoing kidney-care issue, rendering administrative remedies unavailable, and concluded that the statute-of-limitations issue was not clear from the pleadings.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Wisconsin                                                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | J. P. Stadtmueller                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| JURISDICTION          | United States District Court for the Eastern District of Wisconsin                                                                                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | March 11, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 25-CV-637-JPS                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Plaintiff brought a 42 U.S.C. § 1983 action alleging that prison medical providers were deliberately indifferent to his serious medical needs. The State Defendants moved for summary judgment based on failure to exhaust administrative remedies and moved for judgment on the pleadings based on statute-of-limitations grounds.                                                                                                                                  |
| STANDARD OF REVIEW    | Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law; facts and reasonable inferences are construed in favor of the nonmovant. A motion for judgment on the pleadings is governed by the Rule 12(b)(6) standard: factual allegations are accepted as true, reasonable inferences are drawn for the plaintiff, and the complaint must state a facially plausible claim. |
| PRECEDENTIAL VALUE    | Nonprecedential district court order                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PARTIES               | Bobbie Torry v. Lyle Weintraub, Rey Palop, Dr. Shirley Godiwalla                                                                                                                                                                                                                                                                                                                                                                                                     |

## TOPICS

summary judgment

motion for judgment on the pleadings

prisoners rights

section 1983

statute of limitations

## PRACTICE AREAS

Civil procedure

Prisoner civil rights

Constitutional law

Health law

## QUESTIONS PRESENTED

1. Whether Torry exhausted available administrative remedies under the Prison Litigation Reform Act when prison officials rejected his grievance concerning an ongoing medical-care problem as untimely.
2. Whether the State Defendants were entitled to judgment on the pleadings on the ground that Torry's claim against Palop was barred by the statute of limitations.
3. Whether discovery should be stayed pending issuance of a scheduling order.

## HOLDINGS

1. Torry's administrative remedies were unavailable because prison officials improperly rejected his grievance concerning an ongoing medical issue as untimely after acknowledging that the issue was ongoing. The rejection therefore did not establish a failure to exhaust.
2. The State Defendants were not entitled to judgment on the pleadings because, in light of the court's conclusion that Torry did not fail to exhaust, it was not clear from the pleadings that the claim against Palop was time-barred.

## KEY QUOTATIONS

*“The Court finds that the complaint examiner erroneously rejected FLCI-2024-3825 as untimely.”* (Section 3)

*“The Court finds that administrative remedies were not available to Plaintiff to properly exhaust this inmate complaint.”* (Section 3)

*“The case will therefore proceed on the merits, and the Court will issue a scheduling order in due course.”* (Section 5)

## FACTUAL BACKGROUND

Torry, an inmate at Fox Lake Correctional Institution, alleged that beginning in 2021 he had decreased kidney function, urinary symptoms, abnormal test results, and blood in his urine. He alleged that Weintraub, Palop, and Godiwalla failed to provide adequate treatment and refused to refer him to an outside kidney specialist. Torry filed inmate complaint FLCI-2024-3825 concerning the ongoing lack of kidney care, but prison officials rejected it as untimely despite his statement that the medical issue was ongoing.

## PROCEDURAL HISTORY

The court screened the complaint and allowed an Eighth Amendment deliberate-indifference claim to proceed against all three defendants. The State Defendants moved for summary judgment and judgment on the pleadings; they also moved to stay discovery. Defendant Weintraub separately filed and later withdrew a summary-judgment motion. The court granted the stay of discovery and denied both of the State Defendants' dispositive motions, allowing the case to proceed on the merits.

## DISPOSITION

other

## CASES CITED

- Boss v. Castro, 816 F.3d 910, 916 (7th Cir. 2016)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Bridge v. New Holland Logansport, Inc., 815 F.3d 356, 360 (7th Cir. 2016)
- Pozo v. McCaughtry, 286 F.3d 1022, 1025 (7th Cir. 2002)
- Burrell v. Powers, 431 F.3d 282, 284–85 (7th Cir. 2005)
- Perez v. Wis. Dep't of Corr., 182 F.3d 532, 535 (7th Cir. 1999)
- Smith v. Zachary, 255 F.3d 446, 450–51 (7th Cir. 2001)
- Westefer v. Snyder, 422 F.3d 570, 577 (7th Cir. 2005)
- Woodford v. Ngo, 548 U.S. 81, 83–84 (2006)
- Conyers v. Abitz, 416 F.3d 580, 584 (7th Cir. 2005)
- Ross v. Blake, 578 U.S. 632, 642–44 (2016)
- Durley v. Kacyon, No. 21-CV-154-PP, 2022 WL 16530885, at \*5 (E.D. Wis. Oct. 29, 2022)
- Parker v. Almonte-Castro, No. 21-CV-509-BBC, 2022 WL 2274875, at \*4 (W.D. Wis. June 23, 2022)
- Lindell v. Greff, No. 19-C-827, 2021 WL 718237, at \*3 (E.D. Wis. Feb. 24, 2021)
- Jones v. Frank, 07-cv-141-bbc, 2008 WL 4190322, at \*3 (W.D. Wis. Apr. 14, 2008)
- Dole v. Chandler, 438 F.3d 804, 809–12 (7th Cir. 2006)
- Nieto v. Dittman, No. 16-CV-163-JDP, 2017 WL 3610571, at \*2 (W.D. Wis. Aug. 22, 2017)
- Jones-El v. Moore, No. 23-C-1138, 2024 WL 1554101, at \*3 (E.D. Wis. Apr. 10, 2024)
- Patterson v. Whitman, No. 24-CV-939-PP, 2025 WL 1885743, at \*6 (E.D. Wis. July 8, 2025)
- Adams v. City of Indianapolis, 742 F.3d 720, 727–28 (7th Cir. 2014)
- Anicich v. Home Depot U.S.A., Inc., 852 F.3d 643, 648 (7th Cir. 2017)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Schlemm v. Pizzala, No. 19-CV-266, 2021 WL 4988449, at \*1 (E.D. Wis. Sept. 3, 2021)