

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Antonio Maholmes, Jr. v. Conner Monk, Pete Borchardt, Kevin Orzech, Dane Mathwich, Jodie Wilhelm, Bradley Weeks, and James Zimmerman

Maholmes v. Monk · No. 25-cv-76-jdp · Decided January 16, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin denied defendants' motion for summary judgment in Antonio Maholmes, Jr.'s civil rights action alleging an unlawful strip search and excessive force. The court held that defendants had not shown that the Lincoln County jail's grievance process was available to Maholmes before the filing deadline, particularly because he alleged that he lacked grievance forms and writing materials.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	James D. Peterson
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	January 16, 2026
DOCKET	25-cv-76-jdp
DISPOSITION	other
PROCEDURAL POSTURE	Several defendants moved for summary judgment on the affirmative defense that plaintiff failed to exhaust available administrative remedies under the Prison Litigation Reform Act.
STANDARD OF REVIEW	Summary judgment is appropriate only when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. Because failure to exhaust is an affirmative defense, defendants bore the burden of proving it.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- summary judgment
- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment because Maholmes failed to exhaust the jail's grievance procedure.
2. Whether the grievance procedure was available when Maholmes allegedly lacked access to grievance forms and writing utensils before the filing deadline.

HOLDINGS

1. Defendants were not entitled to summary judgment because they failed to meet their burden of showing that Maholmes did not exhaust available administrative remedies.
2. The defendants could not obtain summary judgment because the record did not establish that the grievance process was available to Maholmes before the filing deadline.

KEY QUOTATIONS

“A prisoner is not required to exhaust a grievance process that is unavailable, and the grievance process is not available if the prisoner does not have access to the materials he needs to file a grievance, including grievance forms and something to write with.”

“Defendants have not met their burden to show that Maholmes did not exhaust his available administrative remedies.”

FACTUAL BACKGROUND

Maholmes alleged that jail staff strip-searched him and used excessive force on October 12, 2024. Lincoln County jail rules required detainees to submit written grievances within five days, making October 17 the filing deadline. Maholmes stated that he was placed in observation status, repeatedly requested grievance forms and writing utensils, and lacked access to those materials until October 20. Defendants disputed the duration of his observation status but cited no evidence showing that grievance forms and writing materials were actually available to him before the deadline.

PROCEDURAL HISTORY

Maholmes, proceeding pro se, brought claims alleging that Lincoln County jail staff subjected him to a strip search and used excessive force in violation of the Fourth Amendment. Defendants moved for summary judgment based on failure to exhaust administrative remedies. The district court denied the motion.

DISPOSITION

other

CASES CITED

- Pozo v. McCaughtry, 286 F.3d 1022, 1025 (7th Cir. 2002)
- Davis v. Mason, 881 F.3d 982, 985 (7th Cir. 2018)
- Hill v. Snyder, 817 F.3d 1037, 1041 (7th Cir. 2016)
- King v. McCarty, 781 F.3d 889, 896 (7th Cir. 2015)
- Hernandez v. Dart, 814 F.3d 836, 842-43 (7th Cir. 2016)

OPINION

Antonio Maholmes, Jr. v. Conner Monk, Pete Borchardt, Kevin Orzech, Dane Mathwich, Jodie Wilhelm, Bradley Weeks, and James Zimmerman

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANTONIO MAHOLMES, JR.,

Plaintiff, v. OPINION and ORDER

CONNER MONK, PETE BORCHARDT, KEVIN

25-cv-76-jdp

ORZECZ, DANE MATHWICH, JODIE WILHELM,

BRADLEY WEEKS, and JAMES ZIMMERMAN,

Defendants. Plaintiff Antonio Maholmes, Jr., proceeding without counsel, alleges that staff at the Lincoln County jail subjected him to a strip search and used excessive force on him, in violation of the Fourth Amendment. Some of the defendants move for summary judgment on the ground that Maholmes did not exhaust his administrative remedies. Dkt. 31. For the reasons below, I will deny the motion.

ANALYSIS

The Prison Litigation Reform Act of 1995 (PLRA) requires prisoners, including jail detainees, to exhaust all available administrative remedies before challenging prison conditions under federal law. 42 U.S.C. § 1997e(a). This means that a prisoner must take each step in the administrative process, which includes following instructions for filing “complaints and appeals in the place, and at the time, the prison’s administrative rules require.” *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002). But a prisoner’s failure to exhaust is an affirmative defense that the defendants must prove. *Davis v. Mason*, 881 F.3d 982, 985 (7th Cir. 2018). In this case, the Lincoln County jail requires detainees to “submit [a grievance] in writing within five days of the occurrence to the corrections officer.” Dkt. 33-1, at 8. The strip search and use of force occurred on October 12, 2024, so jail rules required Maholmes to file a grievance by October 17, 2024. Maholmes admits that he did not file any grievances related to the claims in this case, but he says in his declaration, Dkt. 43, that he was unable to file a grievance for the following reasons: • On October 12, he was placed in observation status. • Between October 12 to October 20, he made several requests to jail staff to file a grievance, but he was denied grievance forms and writing utensils. • He did not have

access to grievance forms and a pencil until he was released from observation status on October 20. A prisoner is not required to exhaust a grievance process that is unavailable, and the grievance process is not available if the prisoner does not have access to the materials he needs to file a grievance, including grievance forms and something to write with. *Hill v. Snyder*, 817 F.3d 1037, 1041 (7th Cir. 2016). That is what Maholmes is alleging in this case. Maholmes acknowledges that he could have filed a grievance on October 20, but that was too late. The jail handbook sets a five-day deadline for filing grievances, and that deadline passed on October 17. The handbook identifies no exceptions to the five-day deadline, so Maholmes would not be required to file a late grievance or ask for an extension of the deadline. See *King v. McCarty*, 781 F.3d 889, 896 (7th Cir. 2015). Defendants dispute that Maholmes was in observation status until October 20. They say he was released on October 16, and he was then given a jail handbook, which explained the grievance process. Dkt. 45, ¶¶ 5, 6. Defendants appear to be conceding that jail staff did not inform Maholmes about the grievance process until October 16, and he could not have filed a grievance before then. See *Hernandez v. Dart*, 814 F.3d 836, 842-43 (7th Cir. 2016) (burden is on prison officials to prove that prisoner had notice of grievance procedures). That would give Maholmes one day to file a grievance. But even I assume that one day would have been enough time to make the grievance process available to Maholmes, defendants are not entitled to summary judgment because defendants cite no evidence disputing Maholmes's averments in his declaration that he did not have access to grievance forms or writing utensils to submit a grievance. Defendants cite a statement in the jail handbook that "[g]rievance forms can be found in the cell blocks or given upon request." Dkt. 45, ¶ 7 (citing Dkt. 33-1, at 8). But that is just a line on a piece of paper. Defendants do not cite any evidence that forms (and writing utensils) were actually available to Maholmes before October 17. Defendants have not met their burden to show that Maholmes did not exhaust his available administrative remedies. Accordingly, I will deny defendants' motion for summary judgment.

ORDER

IT IS ORDERED that defendants' motion for summary judgment, Dkt. 31, is DENIED. Entered January 16, 2026. BY THE COURT: /s/ _____

JAMES D. PETERSON

District Judge