

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Girard v. Chuttey

No. 18-2997, United States Court of Appeals for the Second Circuit (September 10, 2020)

SUMMARY

Prisoner's § 1983 claims for excessive force, retaliation, medical indifference, and supervisory liability were dismissed for failure to exhaust administrative remedies under the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e(a), where he filed his federal complaint before the Central Office Review Committee (CORC) ruled on his grievance and before the thirty-day decision period expired, and his second grievance was filed after suit. The Second Circuit affirmed, holding that proper exhaustion requires compliance with agency deadlines and that the district court correctly granted summary judgment on the due process claim because the inmate received advance notice, a hearing with opportunity to present evidence, a fair and impartial officer, and a written disposition supported by "some evidence" under the extremely tolerant standard. The case also addresses the three Ross exceptions to exhaustion when remedies are unavailable, but none applied here.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	John M. Walker, Jr.; Robert A. Katzmann; Raymond J. Lohier, Jr.
JURISDICTION	Federal
DECIDED	September 10, 2020
DOCKET	18-2997
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Northern District of New York granting summary judgment for defendants after magistrate judge's report and recommendation.
STANDARD OF REVIEW	Summary judgment: de novo, resolving all ambiguities and drawing all inferences against the moving party.
PRECEDENTIAL VALUE	unpublished
PARTIES	Chauncey Girard v. Brian Chuttey, A. Hickey, Harold Graham, Alec Venditti, Timothy Abate, Charles Thomas, Richard Gilfus, Anthony Annucci, Carl Koenigsmann, Connors, Jessica Dugan

TOPICS

civil rights section 1983 prisoners rights exhaustion of remedies due process summary judgment
appellate procedure standard of review

PRACTICE AREAS

Civil Rights Prison Litigation

QUESTIONS PRESENTED

1. Whether Girard exhausted his administrative remedies under the Prison Litigation Reform Act for his excessive force, retaliation, failure-to-protect, medical indifference, and supervisory claims.
2. Whether Girard was deprived of due process during his disciplinary hearing due to denial of access to audio/video evidence, intimidating conduct by the hearing officer, and insufficient evidence to support the charges.

HOLDINGS

1. Girard failed to exhaust his administrative remedies because he filed his initial complaint before the Central Office Review Committee (CORC) had either decided his appeal or the 30-day period to respond had elapsed, and his second grievance was filed after the complaint.
2. Girard did not establish a genuine dispute of fact that the defendants withheld evidence, as defendants presented evidence that no additional footage existed and Girard failed to support his claim with an affidavit or other evidence.
3. The transcript contradicted the claim; the hearing officer's interruptions were to stop questions about already established facts, not intimidation.
4. There was 'some evidence' to support the disciplinary charges, as required by due process.

KEY QUOTATIONS

"Summary judgment is proper only when, construing the evidence in the light most favorable to the non-movant, 'there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" (at 2)

"The PLRA requires 'proper exhaustion,' meaning exhaustion in 'compliance with an agency's deadlines and other critical procedural rules.'" (at 3)

"This standard is extremely tolerant and is satisfied if there is any evidence in the record that supports the disciplinary ruling." (at 5-6)

FACTUAL BACKGROUND

Chauncey Girard, an inmate at Auburn Correctional Facility, sued prison officials under 42 U.S.C. § 1983, alleging an assault by officers, denial of medical treatment, and a related disciplinary hearing. The disciplinary

hearing resulted in charges for violent conduct, assault, and failure to obey orders, based on incidents from December 2014 and January 2015.

PROCEDURAL HISTORY

The district court adopted the magistrate judge's recommendation to grant summary judgment to defendants. The pro se plaintiff appealed.

DISPOSITION

affirmed

CASES CITED

- Garcia v. Hartford Police Dep't, 706 F.3d 120 (2d Cir. 2013)
- Doninger v. Niehoff, 642 F.3d 334 (2d Cir. 2011)
- Woodford v. Ngo, 548 U.S. 81 (2006)
- Macias v. Zenk, 495 F.3d 37 (2d Cir. 2007)
- Amador v. Andrews, 655 F.3d 89 (2d Cir. 2011)
- Ross v. Blake, 136 S. Ct. 1850 (2016)
- Williams v. Priatno, 829 F.3d 118 (2d Cir. 2016)
- Neal v. Goord, 267 F.3d 116 (2d Cir. 2001)
- Porter v. Nussle, 534 U.S. 516 (2002)
- LoSacco v. City of Middletown, 71 F.3d 88 (2d Cir. 1995)
- Ortiz v. McBride, 380 F.3d 649 (2d Cir. 2004)
- Sira v. Morton, 380 F.3d 57 (2d Cir. 2004)
- Wolff v. McDonnell, 418 U.S. 539 (1974)
- Ayers v. Ryan, 152 F.3d 77 (2d Cir. 1998)
- Zavaro v. Coughlin, 970 F.2d 1148 (2d Cir. 1992)
- Luna v. Pico, 356 F.3d 481 (2d Cir. 2004)
- Gerstenbluth v. Credit Suisse Secs. (USA) LLC, 728 F.3d 139 (2d Cir. 2013)