

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Jeremiah F. Herbert v. Layci DeRouchie, et al.

No. 9:23-CV-1472 (MAD/MJK) · No. 9:23-CV-1472 (MAD/MJK) · Decided December 8, 2025

SUMMARY

The United States District Court for the Northern District of New York adopted a magistrate judge's report and recommendation and granted defendants' motion for summary judgment in Jeremiah Herbert's 42 U.S.C. § 1983 action. The court held that Herbert failed to exhaust available administrative remedies under the Prison Litigation Reform Act for his Eighth Amendment conditions-of-confinement and excessive-force claims. The court denied Herbert's motion for summary judgment and several other pending motions as moot and directed the Clerk to enter judgment for defendants and close the case.

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 8, 2025
DOCKET	9:23-CV-1472 (MAD/MJK)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 action alleging Eighth Amendment conditions-of-confinement and excessive-force claims. After discovery, Plaintiff moved for summary judgment and Defendants cross-moved for summary judgment. The magistrate judge recommended granting Defendants' motion based on failure to exhaust administrative remedies, and the district court adopted that recommendation.
STANDARD OF REVIEW	Specific objections to a magistrate judge's report-recommendation are reviewed de novo; general or conclusory objections are reviewed for clear error. Summary judgment is proper when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	unpublished

PARTIES

Jeremiah F. Herbert v. Layci DeRouchie, Robert Mayes, James Spinner, Lawrence Moore, Samantha Conners, Kevin Palm, Ian McQuinn, Kelly Richards

TOPICS

prisoners rights

section 1983

summary judgment

civil procedure

cruel and unusual punishment

PRACTICE AREAS

prisoner civil rights

constitutional law

civil procedure

summary judgment

administrative exhaustion

QUESTIONS PRESENTED

1. Whether Plaintiff's general and conclusory objections required de novo rather than clear-error review of the magistrate judge's Report-Recommendation.
2. Whether Defendants were entitled to summary judgment because Plaintiff failed to exhaust available administrative remedies under the Prison Litigation Reform Act.
3. Whether Plaintiff's motion for summary judgment and other pending motions should be denied or deemed moot after judgment for Defendants.

HOLDINGS

1. Because Plaintiff's objections were general and conclusory and merely repeated his prior arguments, the district court reviewed the Report-Recommendation for clear error rather than conducting de novo review.
2. Plaintiff's conditions-of-confinement claim was barred by the PLRA because he did not appeal the relevant grievance determinations through the required administrative process.
3. Plaintiff's excessive-force claim was barred by the PLRA because the record contained no grievance concerning excessive force by any Defendant.
4. Plaintiff failed to establish that the administrative remedies were unavailable, actually or functionally, and therefore did not overcome Defendants' exhaustion defense.

KEY QUOTATIONS

"A court may grant a motion for summary judgment only if it determines that there is no genuine issue of material fact to be tried and that the facts as to which there is no such issue warrant judgment for the movant as a matter of law." (Opinion text)

"Only upon exhaustion of all three levels of review may an incarcerated individual seek relief in federal court." (Opinion text)

"Because Defendants have met their burden of demonstrating failure to exhaust, to survive summary judgment Plaintiff must establish that one or more of the exceptions to exhaustion applies." (Opinion text)

FACTUAL BACKGROUND

Plaintiff was incarcerated at Upstate Correctional Facility and asserted claims concerning allegedly unconstitutional conditions of confinement and excessive force. He had filed numerous grievances during his incarceration, including five relating to the conditions-of-confinement claim, but Defendants presented evidence that he did not appeal those grievances to the facility superintendent. Defendants also showed that none of Plaintiff's seventeen grievances filed at Upstate Correctional Facility referenced excessive force by any Defendant. Plaintiff offered only conclusory assertions that he had exhausted his remedies and did not show that the grievance process was unavailable.

PROCEDURAL HISTORY

Plaintiff commenced the action on November 27, 2023. Upon screening under 28 U.S.C. § 1915, the court permitted two Eighth Amendment claims to proceed. Plaintiff moved for summary judgment, Defendants cross-moved, and Magistrate Judge Mitchell J. Katz recommended granting Defendants' motion. The district court reviewed Plaintiff's objections for clear error because they were general and conclusory, adopted the Report-Recommendation in its entirety, granted Defendants' motion, denied Plaintiff's motion, denied several other motions as moot, and directed entry of judgment for Defendants and closure of the case.

DISPOSITION

other

CASES CITED

- O'Diah v. Mawhir, No. 08-CV-322, 2011 WL 933846, at *1 (N.D.N.Y. Mar. 16, 2011)
- McAllan v. Von Essen, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007)
- Chambers v. TRM Copy Centers 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)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Bridgeforth v. Bartlett, 686 F. Supp. 2d 238, 239 (W.D.N.Y. 2010)
- Key v. Toussaint, 660 F. Supp. 2d 518, 523 (S.D.N.Y. 2009)
- Saeli v. Chautauqua County, 36 F.4th 445, 453 (2d Cir. 2022)
- Romano v. Ulrich, 773 F. App'x 654, 656 (2d Cir. 2019)
- Hubbs v. Suffolk County Sheriff's Department, 788 F.3d 54, 59 (2d Cir. 2015)
- Brown v. Peters, No. 95-CV-1641, 1997 WL 599355, at *2 (N.D.N.Y. Sept. 22, 1997), aff'd, 175 F.3d 1007 (2d Cir. 1999)
- Barrett v. Ballard, No. 9:23-CV-113, 2024 WL 4627511, at *3 (N.D.N.Y. Oct. 4, 2024), report and recommendation adopted, 2024 WL 4627801 (N.D.N.Y. Oct. 30, 2024)

- Jones v. Allen, 2010 WL 3260081, at *2 (S.D.N.Y. Aug. 9, 2010)
- Hill v. Curcione, 657 F.3d 116, 124 (2d Cir. 2011)
- Shabazz v. Bailey, No. 23-7252, 2025 WL 272602, at *1 (2d Cir. Jan. 23, 2025)
- Coley v. Garland, No. 23-295, 2024 WL 878917, at *1 (2d Cir. Mar. 1, 2024), cert. denied, 145 S. Ct. 215 (2024)

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