

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Lee v. Benuelos

595 F. App'x 743 (10th Cir. 2014) · No. 14-1249 · Decided December 2, 2014

SUMMARY

The Tenth Circuit affirmed the dismissal without prejudice of Mario Anton Lee's Bivens action against federal prison officials for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The court held that Lee had not properly completed the Bureau of Prisons' grievance process before filing suit, that prison officials had not rendered the remedies unavailable, and that no evidentiary hearing or stay was required.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Carolyn B. McHugh; Neil M. Gorsuch; Mary Beck Briscoe Murphy
JURISDICTION	Federal
DECIDED	December 2, 2014
DOCKET	14-1249
DISPOSITION	affirmed
PROCEDURAL POSTURE	A federal prisoner appealed the district court's grant of defendants' motion for summary judgment and dismissal without prejudice of his Bivens complaint for failure to exhaust administrative remedies under the Prison Litigation Reform Act.
STANDARD OF REVIEW	De novo review of the grant of summary judgment based on failure to exhaust administrative remedies, resolving factual disputes and drawing reasonable inferences in favor of the nonmoving party.
PRECEDENTIAL VALUE	Unpublished, nonbinding Tenth Circuit order and judgment; persuasive value only, subject to applicable citation rules.
PARTIES	Mario Anton Lee v. Benuelos, Lieutenant, Berry, Lieutenant, M. Ebenhart, Officer, Erps, Officer, Huddleston, Nurse (EMT), Lengren, Nurse, Lee, Officer, Litvan, Lieutenant, Martinez, Lieutenant, Mohler, Officer, Roy, Officer, Short, Officer, Thompson, P.A., J. Wiseman, Officer, McDermott, Medical Director

TOPICS

prisoners rights

summary judgment

civil rights

civil procedure

appellate procedure

PRACTICE AREAS

Prisoner civil rights

Federal civil procedure

Appellate procedure

Administrative exhaustion

QUESTIONS PRESENTED

1. Whether Lee exhausted the administrative remedies available to him before filing his Bivens action.
2. Whether prison officials rendered the administrative remedies unavailable by preventing, thwarting, or hindering Lee's efforts to pursue them.
3. Whether the district court was required to conduct an evidentiary hearing before granting summary judgment on exhaustion.
4. Whether the district court should have stayed the action for ninety days rather than dismissing it so Lee could complete exhaustion.

HOLDINGS

1. Lee failed to exhaust his administrative remedies because he had not refiled his administrative remedy requests with FCI Florence as directed by the Bureau of Prisons before filing his complaint.
2. The administrative remedies remained available because Lee identified no evidence that prison officials prevented, thwarted, or hindered his ability to refile the requests at the institutional level.
3. The district court was not required to conduct an evidentiary hearing before ruling on defendants' summary-judgment motion.
4. Lee was not entitled to a stay because the current version of the PLRA makes exhaustion a mandatory precondition to bringing suit and requires dismissal when available remedies have not been exhausted.

KEY QUOTATIONS

"But although exhaustion is a prerequisite to filing suit, inmates are only required to exhaust available administrative remedies." (-6-)

"Once within the discretion of the district court, exhaustion in cases covered by § 1997e(a) is now mandatory." (-9-)

"Thus, Mr. Lee was not entitled to a stay of proceedings pending proper exhaustion of his administrative remedies and the district court correctly dismissed the complaint." (-10-)

FACTUAL BACKGROUND

Lee, a federal prisoner at FCI Florence in Colorado, alleged that prison officials assaulted and restrained him on February 8 and 9, 2013, and failed to treat his resulting injuries. He filed two Bureau of Prisons administrative remedy requests, but both were initially rejected as untimely because staff unavailability prevented him from filing within the applicable twenty-day period. The Central Office later allowed him to submit staff memoranda

supporting an excuse for untimeliness but directed him to refile the requests at the institutional level; Lee filed suit instead of doing so.

PROCEDURAL HISTORY

Lee filed a Bivens action alleging that prison officials assaulted him, restrained him, and failed to provide medical treatment. The magistrate judge recommended granting defendants' summary-judgment motion because Lee had not completed the Bureau of Prisons grievance process; the district court adopted the recommendation and dismissed the complaint without prejudice. The Tenth Circuit affirmed, holding that Lee had not exhausted his available administrative remedies and was not entitled to an evidentiary hearing or a stay.

DISPOSITION

affirmed

CASES CITED

- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)
- Patel v. Fleming, 415 F.3d 1105, 1110 & n.6 (10th Cir. 2005)
- Fitzgerald v. Corr. Corp. of Am., 403 F.3d 1134, 1138 (10th Cir. 2005)
- Argo v. Blue Cross & Blue Shield of Kan., Inc., 452 F.3d 1193, 1199 (10th Cir. 2006)
- Porter v. Nussle, 534 U.S. 516, 524 (2002)
- Woodford v. Ngo, 548 U.S. 81, 90, 93 (2006)
- Jernigan v. Stuchell, 304 F.3d 1030, 1032 (10th Cir. 2002)
- Little v. Jones, 607 F.3d 1245, 1250 (10th Cir. 2010)
- Gear v. Boulder Cmty. Hosp., 844 F.2d 764, 766 (10th Cir. 1988)
- Fitzgerald v. Corr. Corp. of Am., 403 F.3d 1134, 1139 (10th Cir. 2005)
- Garrett v. Hawk, 127 F.3d 1263, 1265 (10th Cir. 1997)
- Booth v. Churner, 532 U.S. 731 (2001)