

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Carmen Cox v. Tyler Lewey

Cox v. Lewey · No. 24-cv-1375-RJD · Decided March 30, 2026

SUMMARY

The United States District Court for the Southern District of Illinois grants Carmen Cox leave to file his response to Defendant Tyler Lewey’s motion to dismiss out of time. The court denies dismissal of Cox’s Eighth Amendment excessive-force claim under the prison mailbox rule and denies dismissal of his Illinois assault and battery claim based on the asserted statute of limitations. The Clerk is directed to correct the defendant’s name on the docket to Tyler Lewey.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Reona J. Daly
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	March 30, 2026
DOCKET	24-cv-1375-RJD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought an action under 42 U.S.C. § 1983 alleging excessive force in violation of the Eighth Amendment and asserted Illinois assault and battery claims. Defendant moved to dismiss both claims on statute-of-limitations grounds. Plaintiff moved for leave to file his response out of time.
PRECEDENTIAL VALUE	unknown
PARTIES	Carmen Cox v. Tyler Lewey

TOPICS

- motions to dismiss
- statute of limitations
- section 1983
- civil rights
- torts

PRACTICE AREAS

- civil procedure
- civil rights
- torts
- prisoner litigation

QUESTIONS PRESENTED

1. Whether Plaintiff showed good cause for leave to file his response to Defendant's motion to dismiss out of time.
2. Whether the prison mailbox rule rendered the § 1983 excessive-force claim timely when Plaintiff placed the complaint in the prison mail system on the limitations deadline.
3. Whether the Illinois Local Governmental and Governmental Employees Tort Immunity Act's one-year limitations provision applied to assault and battery claims against an employee of the Illinois Department of Corrections.

HOLDINGS

1. Leave to file the response out of time was warranted and was granted for good cause shown, particularly because Plaintiff stated that he did not receive the filing-order until after the deadline and Defendant did not object.
2. The § 1983 excessive-force claim was not untimely because, under the prison mailbox rule, the complaint was deemed filed when Plaintiff placed it in the prison mail system on May 20, 2024, rather than when the clerk received it on May 23, 2024.
3. The Illinois Local Governmental and Governmental Employees Tort Immunity Act did not apply to the assault and battery claim because Defendant was employed by the State of Illinois or an Illinois department rather than a local governmental entity.

KEY QUOTATIONS

“Plaintiff’s claims are subject to the “prison mailbox rule” and his Complaint was “deemed filed at the moment he place[d] it in the prison mail system, rather than when it reaches the court clerk.”” (at 2)

“The Tort Immunity Act specifically does not apply to employees of the State of Illinois or of any department of Illinois, only “employee[s] of local entit[ies].”” (at 2)

FACTUAL BACKGROUND

Carmen Cox, an IDOC prisoner at Menard Correctional Center, alleged that Tyler Lewey fired pepper balls at him without justification on October 18, 2021, striking him twice. Cox exhausted his administrative remedies on May 20, 2022, and certified that he placed his complaint in Menard's institutional mail on May 20, 2024. The complaint was docketed by the district court on May 23, 2024.

PROCEDURAL HISTORY

Cox filed the action on May 23, 2024, alleging that Lewey fired pepper balls at him on October 18, 2021. After receiving multiple extensions, Cox missed the deadline to respond to the motion to dismiss but moved for leave to file his response out of time. The court granted leave, considered the response, denied dismissal of both claims, and directed the Clerk to correct the defendant's name on the docket.

DISPOSITION

other

CASES CITED

- Taylor v. Brown, 787 F.3d 851, 858-59 (7th Cir. 2015)
- Gomez v. Riccio, Case No. 02-c-5911, 2005 WL 2978955 (N.D. Ill. Nov. 1, 2005)
- Walden v. City of Chicago, 755 F. Supp. 2d 942, 959 (N.D. Ill. 2010)

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