

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

David W. Watts v. Charles Bergren

Watts v. Bergren · No. 24-cv-504-wmc · Decided March 9, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin considered whether inmate David W. Watts exhausted administrative remedies under the Prison Litigation Reform Act before filing an Eighth Amendment claim against Correctional Officer Charles Bergren. The court found no dispute that Watts filed suit before completing the appeal of his July 6, 2024 inmate complaint, but concluded that factual disputes remained regarding whether Bergren prevented Watts from filing earlier complaints. The court reserved ruling on the exhaustion-based summary judgment motion and ordered a Pavey hearing.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	March 9, 2026
DOCKET	24-cv-504-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on the affirmative defense that plaintiff failed to exhaust administrative remedies under the Prison Litigation Reform Act. Plaintiff opposed the motion and requested a Pavey hearing concerning whether prison personnel prevented him from filing grievances.
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. On the exhaustion defense, the court draws reasonable inferences in favor of the nonmoving prisoner. If a genuine factual dispute exists concerning the availability of administrative remedies, particularly a credibility dispute, summary judgment is inappropriate and a Pavey hearing is required.
PRECEDENTIAL VALUE	unpublished district court opinion

PARTIES

David W. Watts v. Charles Bergren

TOPICS

summary judgment

prisoners rights

section 1983

civil procedure

PRACTICE AREAS

civil procedure

prisoner litigation

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether defendant was entitled to summary judgment because plaintiff filed suit before completing the administrative process for his July 6, 2024 inmate complaint.
2. Whether a genuine factual dispute existed concerning whether prison officials made administrative remedies unavailable by preventing plaintiff from filing three earlier inmate complaints.
3. Whether the court should conduct a Pavey hearing to resolve the factual and credibility dispute concerning exhaustion and availability of administrative remedies.

HOLDINGS

1. Because Watts filed this action before completing the administrative process for his July 6 inmate complaint, Bergren established a valid failure-to-exhaust affirmative defense as to the claims made in that complaint.
2. Administrative remedies may be considered unavailable when prison employees use affirmative misconduct to prevent a prisoner from exhausting them.
3. Summary judgment was inappropriate because Watts's sworn submissions and Bergren's denial created a genuine factual dispute concerning whether Bergren prevented Watts from submitting three inmate complaints.
4. A Pavey hearing was required to resolve the factual and credibility dispute over whether administrative remedies were unavailable to Watts on June 2, June 5, and June 8, 2024.

KEY QUOTATIONS

“administrative remedies must be exhausted before filing suit, rather than in parallel with the litigation.”

“At a Pavey hearing, the court may take evidence and determine credibility before rendering the factual findings that settle the swearing contest.”

FACTUAL BACKGROUND

Watts, an inmate at a Wisconsin correctional institution, alleged that Bergren enabled another inmate, Clinton Linzy, to sexually harass and threaten him on May 28, 2024. Watts filed an inmate complaint concerning the incident on July 6 and appealed its rejection, but filed this federal action before completing that process. Watts also declared that he submitted three earlier complaints on June 2, June 5, and June 8, but that Bergren retrieved,

tore up, and threatened him regarding those complaints; Bergren denied the alleged interference and asserted that he lacked access to the complaint drop boxes.

PROCEDURAL HISTORY

Watts filed a § 1983 action alleging that Correctional Officer Bergren enabled another inmate to sexually harass and threaten him. Watts filed an inmate complaint on July 6, 2024, but filed this federal action before completing the administrative appeal process. The court found no factual dispute that the July 6 complaint was not exhausted before suit, but found a genuine factual dispute concerning Watts's assertions that Bergren thwarted three earlier complaints. The court reserved ruling on summary judgment and ordered a Pavey hearing.

DISPOSITION

other

CASES CITED

- Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008)
- Jackson v. Esser, 105 F.4th 948, 956-58 (7th Cir. 2024)
- Hacker v. Dart, 62 F.4th 1073, 1078 (7th Cir. 2023)
- Dole v. Chandler, 438 F.3d 804, 809 (7th Cir. 2006)
- Ingram v. Watson, 67 F.4th 866, 869, 871 (7th Cir. 2023)
- Ross v. Blake, 578 U.S. 632, 638-39, 644 (2016)
- Breyley v. Fuchs, 156 F.4th 845, 847 (7th Cir. 2025)
- King v. Dart, 63 F.4th 602, 606 (7th Cir. 2023)
- Thomas v. Reese, 787 F.3d 845, 847-48 (7th Cir. 2015)
- Kaba v. Stepp, 458 F.3d 678, 686 (7th Cir. 2006)
- Dale v. Lappin, 376 F.3d 652, 656 (7th Cir. 2004)
- Hernandez v. Dart, 814 F.3d 836, 842 (7th Cir. 2016)
- Gooch v. Young, 24 F.4th 624, 627 (7th Cir. 2022)
- Smallwood v. Williams, 59 F.4th 306, 319 (7th Cir. 2023)
- Hernandez v. Lee, 128 F.4th 866, 869 (7th Cir. 2025)
- Wilborn v. Ealey, 881 F.3d 998, 1004 (7th Cir. 2018)
- Roberts v. Neal, 745 F.3d 232, 234 (7th Cir. 2014)