

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, AMARILLO DIVISION

Corey Keith v. Director, TDCJ-CID

No. 2:24-CV-33-Z-BR · No. 2:24-CV-33-Z-BR · Decided January 9, 2026

SUMMARY

A magistrate judge recommends dismissing with prejudice Corey Keith’s 28 U.S.C. § 2254 petition challenging nine TDCJ prison disciplinary proceedings. The recommendation concludes that Keith exhausted only one claim, which concerned non-cognizable sanctions, and procedurally defaulted the claims involving lost good-time credits without showing cause, prejudice, futility, or actual innocence.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Amarillo Division
JURISDICTION	United States District Court for the Northern District of Texas, Amarillo Division
DECIDED	January 9, 2026
DOCKET	2:24-CV-33-Z-BR
DISPOSITION	other
PROCEDURAL POSTURE	Findings, conclusions, and recommendation by a magistrate judge on a state prisoner's 28 U.S.C. § 2254 petition challenging nine prison disciplinary proceedings.
STANDARD OF REVIEW	The recommendation applies the exhaustion requirement of 28 U.S.C. § 2254, exceptions for unavailable or ineffective state corrective processes, procedural-default principles requiring cause and prejudice or a fundamental miscarriage of justice, and the standard that habeas relief is unavailable for disciplinary sanctions that do not implicate a constitutionally protected liberty interest.
PRECEDENTIAL VALUE	nonprecedential recommendation
PARTIES	Corey Keith v. Director, TDCJ-CID

TOPICS

- federal habeas corpus
- post-conviction relief
- default
- due process
- civil procedure

PRACTICE AREAS

federal habeas corpus

prisoner litigation

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether Keith exhausted the administrative remedies required for his challenges to the nine prison disciplinary proceedings.
2. Whether the disciplinary sanctions involving loss of commissary privileges, recreation, cell, telephone, visitation, tablet privileges, or line status implicated a constitutionally protected liberty interest cognizable in habeas.
3. Whether Keith's medical condition rendered the TDCJ grievance process ineffective or otherwise excused his failure to exhaust the disciplinary cases involving loss of good-time credits.
4. Whether the unexhausted claims were procedurally defaulted and whether Keith established cause and prejudice or a fundamental miscarriage of justice.
5. Whether dismissal should be with prejudice because the deadlines for completing the administrative remedy process had passed.

HOLDINGS

1. A state prisoner challenging a Texas prison disciplinary proceeding under 28 U.S.C. § 2254 must exhaust the available two-step TDCJ grievance process, and both grievance steps must be completed.
2. Loss of commissary, recreation, telephone, visitation, tablet, or cell privileges, and loss of line status or the opportunity to earn good time, do not by themselves implicate a constitutionally protected liberty interest sufficient to support habeas relief.
3. Keith's asserted medical condition did not establish that the TDCJ grievance process was unavailable or ineffective, and therefore did not excuse his failure to exhaust.
4. Keith's unexhausted claims were procedurally defaulted because the TDCJ deadlines for filing grievances had passed and he failed to show cause and prejudice or a fundamental miscarriage of justice.

KEY QUOTATIONS

“Because Keith can no longer comply with the exhaustion requirement, his claims should be dismissed with prejudice.”

“The Court cannot grant relief based on mere speculation and “questions” as to whether relief may be proper.”

FACTUAL BACKGROUND

Keith was convicted in nine TDCJ disciplinary cases, principally for failing to report to work while asserting that he needed medical attention for a head or neck injury. Some convictions resulted in loss of good-time credits, while others resulted only in restrictions on commissary, recreation, telephone, tablet, visitation, or other privileges, or reductions in line class. Keith completed the two-step grievance process for only the fifth case and

failed to complete the process for the remaining cases, later arguing that his medical condition should excuse exhaustion.

PROCEDURAL HISTORY

Keith filed a federal habeas petition challenging nine disciplinary convictions arising from alleged failures to report for work assignments and, in one case, being out of place. He exhausted administrative remedies for only the fifth disciplinary case; he did not complete the grievance process for the other eight cases. The recommendation concludes that the exhausted claim was not cognizable because it involved only loss of commissary privileges and line status, that the unexhausted claims were procedurally defaulted, and that the petition should be dismissed with prejudice because the grievance deadlines had passed.

DISPOSITION

other

CASES CITED

- Baldwin v. Reese, 541 U.S. 27, 29 (2004)
- Duncan v. Henry, 513 U.S. 364, 365 (1995)
- Sones v. Hargett, 61 F.3d 410, 414 (5th Cir. 1995)
- Coleman v. Thompson, 501 U.S. 722, 731-32, 750 (1991)
- Ex parte Palomo, 759 S.W.2d 671, 674 (Tex. Crim. App. 1988)
- Anthony v. Johnson, 177 F.3d 978, 978 (5th Cir. 1999) (per curiam)
- Gartrell v. Gaylor, 981 F.2d 254, 258 n.3 (5th Cir. 1993)
- Rosa v. Littles, 336 F. App'x 424, 428 (5th Cir. 2009)
- Johnson v. Johnson, 385 F.3d 503, 515 (5th Cir. 2004)
- Wright v. Hollingsworth, 260 F.3d 357, 358 (5th Cir. 2001)
- McCarthy v. Madigan, 503 U.S. 140, 145-49 (1992)
- Duckworth v. Serrano, 454 U.S. 1, 3 (1981)
- Dilworth v. Johnson, 215 F.3d 497, 501 n.3 (5th Cir. 2000)
- Carter v. Estelle, 677 F.2d 427, 446 (5th Cir. 1982)
- Fisher v. State of Texas, 169 F.3d 295, 303 (5th Cir. 1999)
- Luken v. Scott, 71 F.3d 192, 193 (5th Cir. 1995)
- Antone v. Preschel, 347 F. App'x 45, 46 (5th Cir. 2009)
- Gaona v. Erwin, 224 F. App'x 327, 328 (5th Cir. 2007)
- Madison v. Parker, 104 F.3d 765, 768 (5th Cir. 1997)
- Malchi v. Thaler, 211 F.3d 953, 956 (5th Cir. 2000)
- Perez v. Johnson, 122 F.3d 1067, 1997 WL 464599, at *1 (5th Cir. 1997)
- Yoo v. United States, No. 6:21cv415, 2023 WL 4401623, at *11 (E.D. Tex. May 16, 2023)

- *Moffatt v. Director, TDCJ-CID*, 390 F. Supp. 2d 560, 562 (E.D. Tex. 2005)
- *Redic v. Thaler*, No. H-09-1573, 2010 WL 56055, at *2-3 (S.D. Tex. Jan. 6, 2010)
- *Johnson v. Cain*, 215 F.3d 489, 494 (5th Cir. 2000)
- *Finley v. Johnson*, 243 F.3d 215, 220-21 (5th Cir. 2001)
- *Fairman v. Anderson*, 188 F.3d 635, 644 (5th Cir. 1999)
- *Wendell v. Asher*, 162 F.3d 887, 892 (5th Cir. 1998)
- *Jones v. Bock*, 549 U.S. 199 (2007)
- *Johnson v. Louisiana ex rel. Louisiana Department of Public Safety & Corrections*, 468 F.3d 278, 280-81 (5th Cir. 2006) (per curiam)
- *Alexander v. Tippah County, Mississippi*, 351 F.3d 626, 630 (5th Cir. 2003) (per curiam)
- *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)
- *ACS Recovery Services, Inc. v. Griffin*, 676 F.3d 512, 521 n.5 (5th Cir. 2012)
- *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988)

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