

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Tullis v. Shaw

676 F. App'x 580 (7th Cir. 2017) · Decided January 19, 2017

SUMMARY

The Seventh Circuit vacated the dismissal of Patrick Tullis’s civil-rights action against Illinois prison staff and remanded for a hearing on whether he exhausted his administrative remedies under the Prison Litigation Reform Act. The court concluded that the record was insufficient to determine whether Tullis reasonably pursued his grievances while awaiting a delayed response from the Illinois Department of Corrections Director. The court also directed the district court to reconsider whether several grievances returned for procedural reasons had been properly exhausted.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Bauer; Rovner; Sykes
JURISDICTION	Federal
DECIDED	January 19, 2017
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed the district court's grant of summary judgment to prison officials on the ground that he failed to exhaust administrative remedies under the Prison Litigation Reform Act.
STANDARD OF REVIEW	Review of the grant of summary judgment and the legal determination concerning exhaustion of administrative remedies; the appellate court determined that the record was insufficiently developed to resolve exhaustion without further factual proceedings.
PRECEDENTIAL VALUE	Nonprecedential appellate opinion
PARTIES	Patrick Tullis v. Vipin Shaw, Arthur Funk, Christine Brown, Allan Martin, Kendra Seip

TOPICS

- exhaustion of remedies
- prisoners rights
- civil rights
- summary judgment
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment on the ground that Tullis failed to exhaust administrative remedies before filing his civil-rights action.
2. Whether the delay in deciding Tullis's administrative appeal rendered the grievance process unavailable or otherwise excused pre-suit exhaustion.
3. Whether the district court was required to hold a Pavey hearing before deciding whether Tullis properly exhausted grievances returned for alleged procedural mistakes.

HOLDINGS

1. The record was insufficiently developed to determine whether Tullis failed to exhaust available administrative remedies before filing suit; therefore, the grant of summary judgment could not stand.
2. The district court must conduct a Pavey hearing and reconsider whether the grievances returned for alleged procedural mistakes were properly exhausted.

KEY QUOTATIONS

“Given the scant record in this case, we think it premature to decide whether, under Ford, Tullis should have waited longer for the Director to act on his appeal before he filed suit.” (676 F. App'x at 582)

“we cannot conclude from this record that Tullis was wrong to pursue judicial remedies after waiting expectantly for seven months without sign of activity.” (676 F. App'x at 582)

FACTUAL BACKGROUND

Tullis, an Illinois inmate, filed grievances alleging inadequate medical treatment and retaliation for filing grievances. Prison officials returned six grievances for procedural reasons and processed two May 2013 grievances concerning medical problems, but the Director of the Illinois Department of Corrections did not issue a decision until March 2014. Tullis filed suit in January 2014 while his appeal had been pending for approximately seven months and received no communication concerning it for nearly nine months.

PROCEDURAL HISTORY

After screening, the district court allowed Tullis to proceed on deliberate-indifference medical-treatment and retaliation claims. A magistrate judge recommended summary judgment for defendants based on nonexhaustion, and the district court adopted that recommendation over Tullis's objection. The Seventh Circuit vacated and remanded because the record was insufficient to determine whether Tullis had exhausted available administrative remedies and because a Pavey hearing was required.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the district court's judgment and conduct further proceedings, including a Pavey hearing and further factual development concerning whether Tullis's administrative remedies were unavailable or otherwise exhausted. The district court must also reconsider whether the grievances returned for alleged procedural mistakes were properly exhausted.

CASES CITED

- Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008)
- Ross v. Blake, 136 S. Ct. 1850, 1854-55, 195 L. Ed. 2d 117 (2016)
- Lewis v. Washington, 300 F.3d 829, 833 (7th Cir. 2002)
- Ford v. Johnson, 362 F.3d 395, 397-400 (7th Cir. 2004)
- Turley v. Rednour, 729 F.3d 645, 650 n.3 (7th Cir. 2013)
- Brengetty v. Horton, 423 F.3d 674, 682 (7th Cir. 2005)

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