

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted July 11, 2023*

Decided July 11, 2023

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2697

BOYD McCHRISTIAN,
Plaintiff-Appellant,

v.

MATTHEW ANDERSON, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

No. 3:21-CV-43-JD-MGG

Jon E. DeGuilio,
Chief Judge.

ORDER

Boyd McChristian, an Indiana state prisoner, appeals the summary judgment on his First and Eighth Amendment claims. Because the district judge correctly ruled that he did not, as is required, exhaust his available administrative remedies, we affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

McChristian claims that officers at Indiana State Prison, located in Michigan City, Indiana, where he is incarcerated, assaulted him, placed him in a feces-encrusted cell, and disciplined him in retaliation for earlier complaints. McChristian sued under 42 U.S.C. § 1983, and at screening, the judge construed his claims as arising under the First and Eighth Amendments.

The prison maintains a three-step process that prisoners must use for grievances. Under its procedures, the prisoner first informally attempts to resolve a grievable issue, and if unsuccessful, submits a written grievance to a grievance specialist. Second, if the specialist rejects the claim, the prisoner then appeals to the warden or the warden's designee. And finally, if the prisoner disagrees with the resolution of that appeal, the prisoner files an additional appeal to the grievance manager for the Indiana Department of Correction. Not all issues, however, that a prisoner might face are subject to these procedures; the prison's rules distinguish between grievable and non-grievable issues. Grievable issues include challenges to "[a]ctions of individual staff" and "[a]cts of reprisal." Non-grievable issues include challenges to "Federal, State, and local law."

McChristian followed only some of these grievance procedures for his claims. He submitted an initial grievance about his first claim, the alleged assault. At step one a specialist denied it on the merits, reasoning that video evidence showed that the officer's use of force was appropriate. McChristian did not pursue the remaining steps of appealing. Later, he filed a grievance about his second claim, concerning the alleged feces-encrusted cell. Again at step one the specialist rejected it, this time without reaching the merits, deciding that, among other problems, McChristian had not tried to resolve the issue informally. McChristian did not resubmit a corrected grievance or pursue the steps of appealing. For his third claim, the alleged retaliatory discipline, he never filed any grievance.

The officers moved for summary judgment, arguing that he had not exhausted administrative remedies as required by the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(a). McChristian responded that he did not have to complete the grievance process for two reasons: First, the prison had improperly rejected other grievances he had submitted, demonstrating that the process was unavailable to him. And second, in his view, his claims were not grievable.

The judge entered summary judgment for the officers. In rejecting the first argument, he ruled that McChristian failed to establish that the prison improperly rejected his grievances or that he could not use the grievance process. Regarding the

argument that the claims were not grievable, the judge concluded that McChristian's issues fell in the grievable category of "[a]ctions of individual staff," not the exemption for "Federal, State, and local law." Quoting *Ross v. Blake*, 578 U.S. 632, 644 (2016), the judge also observed that, to the extent that the rules were "susceptible of multiple reasonable interpretations," McChristian had to "err on the side of exhaustion."

On appeal, McChristian maintains that he did not have to exhaust administrative remedies, and thus the district judge wrongly entered summary judgment on that basis. He revives only his second argument from the district court, insisting that his complaint deals with "crimes," which he believes "are not grievable" issues. As we understand his argument, the "crimes" he refers to in his complaint are the officers' alleged violations of his federal constitutional rights. Because the prison's rules list "Federal ... law" as a non-grievable issue, he believes he did not have to grieve his claims.

We review the judge's entry of summary judgment de novo, *Miles v. Anton*, 42 F.4th 777, 780 (7th Cir. 2022), and conclude that it was proper. The failure to exhaust administrative remedies is an affirmative defense for which the officers have the burden of proof. *Id.* The district judge rightly ruled that the defendants met their burden here: They established that, based on the list of grievable issues in the prison's rules, McChristian challenges the grievable "[a]ctions of individual staff" and "[a]cts of reprisal"; he does not challenge the validity of any "Federal ... law."

Our recent reading of the prison's grievance rules supports the district judge's decision. In *Miles v. Anton*, prison officials argued that a prisoner had not exhausted available administrative remedies for his claim about his discharge from his commissary job because, like here, it fell under the grievable category of "[a]ctions of individual staff." *Miles*, 42 F.4th at 780. We acknowledged that the firing was "no doubt" an action by individual staff. *Id.* But we observed that, in that case, the claim also fell squarely within the narrow and unambiguous non-grievable category of "loss of a job." *Id.* Because "[n]arrowing a document's general or default language so as to render it compatible with specific exceptions is a mainstay of legal interpretation," we rejected the position of prison staff. *Id.* But no such narrow, specific exception is present here. If McChristian wanted to challenge the validity of a federal law, the exception to the prisons' grievance process for challenges to "Federal ... law" might apply. But McChristian is not contesting a federal law. And his expansive view—the exception for challenges to federal law covers claims that officers *violated* that law—eliminates the need to grieve any claim that "[a]ctions of individual staff" violated federal law. Just as

we must give effect to specific exceptions, *see id.*, we must also give effect to the reasonable construction of general rules, not eviscerate them. *See Ross*, 578 U.S. at 644.

AFFIRMED