

NONPRECEDENTIAL DISPOSITION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 24, 2023*

Decided July 26, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2927

JUSTIN JAMES EUGENE CLARK,
Plaintiff-Appellant,

v.

JOHN GALIPEAU, Warden
Defendant-Appellee.

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

No. 3:22-CV-522-DRL-MGG

Damon R. Leichty,
Judge.

ORDER

Justin Clark, an Indiana prisoner, sought an injunction to compel the prison's medical staff to provide him with mental health treatment. After granting some preliminary injunctive relief, the district court entered summary judgment against Clark because he had not exhausted his administrative remedies. Clark appeals, but he has

* 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).

since transferred facilities, so his case is moot. We vacate and remand for the district court to dismiss the suit on that ground.

Clark sued staff at Westville Correctional Facility, alleging that they were failing to treat his mental health conditions, including suicidal ideation. He sought an injunction mandating medication, therapy, and a transfer to either the New Castle or Pendleton Correctional Facility for better treatment. Clark alleged that he had filed grievances at Westville about the lack of treatment but did not receive any response.

The district court interpreted the complaint to include a motion for a preliminary injunction and ordered the court clerk to add the proper defendant: Westville's warden, in his official capacity. (In the same order, the court dismissed all other claims against all other defendants pursuant to 28 U.S.C. § 1915A, and Clark does not appeal those decisions.) The court granted Clark's motion in part, ordering the warden to have Clark evaluated by a mental health professional and then report to the court.

After certifying his compliance with the injunction, the warden answered the complaint and, a short time later, moved for summary judgment arguing that Clark had failed to exhaust his administrative remedies, as required by 42 U.S.C. § 1997e(a). The district court ultimately agreed. It explained that, even if it accepted Clark's assertion (without corroborating evidence) that he filed the grievances, he had not, as required, contacted a grievance specialist when he received no response. *See generally Lockett v. Bonson*, 937 F.3d 1016, 1027 (7th Cir. 2019).

Clark appeals, contesting the district court's conclusion that he failed to exhaust administrative remedies. But we must first address jurisdiction: whether this case continues to present a live controversy, as required by Article III, section 2 of the Constitution. *See E.F.L. v. Prim*, 986 F.3d 959, 962–63 (7th Cir. 2021). A dispute must remain live through all stages of the proceedings, including appeals. *Chafin v. Chafin*, 568 U.S. 165, 172 (2013). When a court cannot grant effective relief to the prevailing party, the case becomes moot. *Id.* That is the situation here.

Public records of the Indiana Department of Correction show that Clark was transferred to New Castle Correctional Facility sometime after filing his opening brief on appeal. The only relief Clark sought was injunctive, and the district court correctly designated Westville's warden in his official capacity as the proper defendant. Because Clark did not (and could not now) bring a damages claim, we cannot order any effective relief pertaining to his medical care at Westville. *See Alvarez v. Smith*, 558 U.S.

87, 92 (2009). Further, the record gives us no reason to infer that a transfer back to Westville is likely. Therefore, Clark's suit is moot. *See Fuller v. Dillon*, 236 F.3d 876, 883 (7th Cir. 2001); *Higgason v. Farley*, 83 F.3d 807, 811 (7th Cir. 1996).

We VACATE and REMAND with instructions to dismiss the claim as moot. *See Alvarez*, 558 U.S. at 94; *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950).