

NONPRECEDENTIAL DISPOSITION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 October 15, 2024*

Decided October 16, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-1919

MARION LEE YOUNG,
Plaintiff-Appellant,

v.

MICHAEL KOLHOUSE,
Defendant-Appellee.

Appeal from the United States District
Court for the Southern District of
Indiana, Terre Haute Division.

No. 2:22-cv-00553-MPB-MKK

Matthew P. Brookman,
Judge.

ORDER

The Prison Litigation Reform Act mandates that before suing prison officials, an incarcerated person must first exhaust “such administrative remedies as are available.”

* 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).

42 U.S.C. § 1997e(a). Marion Young, who is incarcerated at Knox County Jail in Indiana, sued one of the jail's captains. The district judge entered summary judgment for the captain because he demonstrated that Young failed to exhaust his available administrative remedies before suing. Because Young did not present evidence that rebuts the defendant's exhaustion defense, we affirm.

Young entered the jail on June 6, 2022, just before the jail changed its grievance procedures. From 2019 through July 18, 2022, the process had three steps—an initial grievance step and two internal appellate steps: (1) submit a grievance to the shift supervisor; (2) appeal to the jail commander; and (3) appeal to the county's sheriff. In July, the jail amended the grievance procedure to add another appellate step after the initial grievance step: (1) submit to the shift supervisor a grievance (also called a request for informal resolution) that names "all parties"; (2) appeal to a captain; (3) appeal to the jail commander; and finally (4) appeal to the county's sheriff.

According to Young, in July 2022 Captain Michael Kolhouse assaulted Young twice, including once in a "padded cell," leaving him with injuries that went untreated. Young does not specify the date of either alleged assault. The record shows that he submitted numerous grievances, both before and after July, about other issues, such as the law library, visitation, and other medical problems. Two grievances in the record loosely resemble allegations in this suit. In the first, filed in September, Young complains that he was injured and left untreated after two "punishments." The second, filed in November just before he sued in federal court, referred to an incident in a padded cell where officers allegedly cut off his clothes because he refused to follow orders. None of his grievances, including these latter two, name Kolhouse.

After Young sued in federal court, Kolhouse successfully moved for summary judgment based on Young's failure to exhaust his administrative remedies. Kolhouse supplied what he said was a complete set of Young's grievances, none of which named Kolhouse. Young protested that the set was incomplete. The judge ordered Kolhouse to produce all grievances from Young and told Young either to submit any relevant grievances that Kolhouse had not previously supplied or to attest to "what documents he submitted, when he submitted them, what they said, and to whom he submitted them." Kolhouse produced more grievances (explaining that a now-resolved technical glitch with accessing the grievances had inadvertently caused the earlier, incomplete submission). Young cited these grievances. Still, none named Kolhouse. Young insisted that the jail was withholding other grievances. The judge granted the motion for summary judgment because no grievance in the record accused Kolhouse of assault.

In an appeal of summary judgment based on a failure to exhaust available remedies, we review de novo legal rulings, such as the ruling that Young did not materially dispute Kolhouse's evidence that Young did not exhaust. *See Wilborn v. Ealey*, 881 F.3d 998, 1004 (7th Cir. 2018). A jail's grievance procedures define the available remedies, *Jones v. Bock*, 549 U.S. 199, 218 (2007), all of which a plaintiff must complete before suing. *See Ross v. Blake*, 578 U.S. 632, 638 (2016). While grievance procedures need not require that the plaintiff name the offending official, *see, e.g., Jones*, 549 U.S. at 218, grievances must provide "some identifying information about the accused individuals." *King v. Dart*, 63 F.4th 602, 609 (7th Cir. 2023). The defendant bears the burden of proving that the plaintiff failed to exhaust administrative remedies. *Gooch v. Young*, 24 F.4th 624, 627 (7th Cir. 2022). In assessing whether the defendant has met his burden, a district judge should hold a *Pavey* hearing to resolve any factual disputes. *Pavey v. Conley*, 544 F.3d 739, 742 (7th Cir. 2008). But if the record contains no material fact disputes, as the district court ruled here, a *Pavey* hearing is not necessary. *See id.*

Young argues that he adequately contested Kolhouse's evidence that Young did not exhaust his administrative remedies. We disagree. Because Young does not specify the dates of the alleged assaults, we do not know if the old or new grievance process applies. But for three reasons, under either process, the undisputed evidence shows that Young falls short. First, none of the grievances that the parties put in the record provide identifying information that points to Kolhouse. Without providing that identifying information (or offering a reason why he could not provide it), Young has failed to fulfill step one of either version of the grievance process. Second, even if we assume, as Young insists, that Kolhouse did not supply the court with all the grievances that Young had filed, Young did not create a factual dispute that he filed a step-one grievance about Kolhouse. He did not attest under oath, as he was ordered to do if it were true, that he filed a grievance about either of Kolhouse's two assaults. Third, even if Young had so attested (or even if we treat the two ambiguous grievances from September and November as identifying Kolhouse), Young provided no evidence that he internally appealed any adverse decision of a grievance about Kolhouse. Internal appeals were available to him after step one and therefore required of him to exhaust. 42 U.S.C. § 1997e(a). Young's failure to contest Kolhouse's evidence that Young did not invoke internal appeals means that it is undisputed that Young failed to exhaust.

AFFIRMED