

**NONPRECEDENTIAL DISPOSITION**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 November 7, 2024\*

Decided November 15, 2024

**Before**

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 24-1145

VIRGIL E. GRIFFIN,  
*Plaintiff-Appellant,*

*v.*

DOUGLAS WARDLOW, et al.,  
*Defendants-Appellees.*

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

No. 3:22-CV-152-DRL-JPK

Damon R. Leichty,  
*Judge.*

**ORDER**

Virgil Griffin, an Indiana prisoner, appeals the summary judgment entered against him for failing to exhaust his administrative remedies before filing this suit, as required under the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). Because

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\* 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).

administrative remedies were available to Griffin, and he did not strictly comply with the procedural requirements, we affirm.

In his complaint under 42 U.S.C. § 1983, Griffin alleged that staff members at Indiana State Prison subjected him to conditions of confinement that violated the Eighth Amendment, and that administrators at the prison and within the Indiana Department of Correction were aware of, but failed to correct, the conditions. Relevant for this appeal, the Department's grievance procedures consisted of three steps, requiring a prisoner to (1) file a grievance after attempting to resolve the issue informally; (2) file an appeal to the warden or the warden's designee; and (3) file an appeal to the Department's grievance manager. *See* IDOC Manual of Policies and Procedures No. 00-02-301, at 3. This grievance process was required for allegations relating to conditions within the prison but could not be used for every kind of problem, such as complaints about the grievance system or grievance responses. *See id.* at 3–5.

From December 2021 through January 2022, Griffin filed several grievances relating to the water and air temperatures. He first submitted a grievance stating that the water in his housing unit was too cold for him to take a shower. In response, an administrator stated that corrections officers were unable to change the water temperature in the prison. Griffin did not appeal the response. Soon after, he submitted a new grievance, this time stating that the air temperature in his cell was “freezing cold” and that the prison did not supply adequate clothing to stay warm. An administrator returned the grievance to Griffin and asked him to resubmit it with more details, such as what had occurred on the date of the incident, the staff that he has discussed the issue with, and the responses he received. Griffin did not resubmit his grievance; instead, he submitted another grievance stating that the administrator had denied him access to the grievance process by returning the previous grievance unresolved. This grievance was returned to Griffin on the basis that the regulations do not permit using a grievance to complain about the contents of a response. *See id.* at 4 (listing “contents of a grievance or appeal responses” as matters inappropriate for the grievance process).

Griffin then filed this § 1983 suit alleging that defendants including correctional staff, grievance officers, prison administrators, and Department officials failed to ensure that he was provided with adequate clothing, bedding, heating, and warm water, in violation of his Eighth Amendment rights. The district court screened the complaint, *see* 28 U.S.C. § 1915A, and dismissed the grievance officers as defendants, but it allowed Griffin to proceed against the defendants who allegedly provided prisoners inadequate

clothing and bedding. The defendants later moved for summary judgment on the ground that Griffin had failed to exhaust administrative remedies. The district court agreed with the defendants, rejecting Griffin's argument that the grievance process was unavailable to him.

On appeal, Griffin argues that the district court erred in dismissing the grievance officers as defendants and in concluding that he failed to exhaust his administrative remedies. We review these decisions de novo. See *Schillinger v. Kiley*, 954 F.3d 990, 994 (7th Cir. 2020) (screening order); *Williams v. Ortiz*, 937 F.3d 936, 941 (7th Cir. 2019) (exhaustion of administrative remedies).

The district court properly concluded that Griffin could not sue the grievance officers on the theory that his grievances made them aware of the allegedly inhumane conditions at the prison yet they did nothing to address his needs. To be liable under § 1983, a defendant must be personally responsible for the violation of a constitutional right. See *Taylor v. Ways*, 999 F.3d 478, 493 (7th Cir. 2021). An official who merely reviews and processes a grievance cannot be liable for the conduct or conditions forming the basis of that grievance. See *Owens v. Evans*, 878 F.3d 559, 563 (7th Cir. 2017).

As to the issue of exhaustion of remedies, the Prison Litigation Reform Act provides that "[n]o action shall be brought with respect to prison conditions ... until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). This provision requires "proper" exhaustion, *Woodford v. Ngo*, 548 U.S. 81, 93 (2006), as defined by the prison's grievance procedures. *Jones v. Bock*, 549 U.S. 199, 218 (2007). But exhaustion is not required if a grievance process is not "available." *Gooch v. Young*, 24 F.4th 624, 627 (7th Cir. 2022). This includes situations where "prison officials responsible for providing grievance forms refuse to give a prisoner the forms necessary to file an administrative grievance." *Id.* (citation omitted). Because failure to exhaust is an affirmative defense, the defendants must show that administrative remedies were available to Griffin. *Id.*

Here, the defendants met their burden with their evidence that Griffin did not complete all three steps of the process with respect to any grievance relevant to this lawsuit. Strict compliance with the grievance process is required for proper exhaustion, and so Griffin must complete each step prescribed by the prison's regulations. See *Jones*, 549 U.S. at 218 ("[I]t is the prison's requirements ... that define the boundaries of proper exhaustion."); *Williams v. Rajoli*, 44 F.4th 1041, 1045 (7th Cir. 2022). Griffin does not dispute that he never appealed the denial of his grievances or that he failed to resubmit

any grievance with additional information when instructed by a grievance officer. Nor does he argue that the prison's grievance procedure was so vague that no ordinary prisoner could make sense of its requirements. *See Reid v. Balota*, 962 F.3d 325, 329 (7th Cir. 2020). Indeed, the Department's records show that Griffin knew the steps to properly exhaust his grievances: he fully exhausted the process at least twice.

With respect to the grievances that Griffin says were ignored (returned without any investigation) rather than processed, the record shows that this occurred only when the grievance was not *properly* filed under the regulations: he failed to supply requested information to allow investigation, or the content of the grievance was outside the scope of the process. Proper filing is required before a grievance officer must respond to them. *See Dole v. Chandler*, 438 F.3d 804, 809 (7th Cir. 2006). Griffin's frustration with returned grievances did not make the process unavailable; rather than "obscur[ing] the process," *Reid*, 962 F.3d at 330, the responses identified the problem and told Griffin how to proceed. Therefore, the grievance process was available for him.

AFFIRMED