

NONPRECEDENTIAL DISPOSITION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 December 18, 2024*

Decided December 23, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-1678

TRAIS F. HAIRE,
Plaintiff-Appellant,

v.

MATTHEW BURNS, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 23-C-912

William C. Griesbach,
Judge.

ORDER

Trais Haire, a Wisconsin prisoner, appeals the summary judgment against him based on his failure to exhaust administrative remedies before bringing a failure-to-intervene claim under the Eighth Amendment. *See* 42 U.S.C. § 1983. Because the

* 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).

undisputed facts show that Haire did not comply with the prison's grievance procedures in the time and manner required of him, *see id.* § 1997e(a), we affirm.

We construe the facts and draw all reasonable inferences in favor of Haire, the party opposing summary judgment. *See Jackson v. Esser*, 105 F.4th 948, 961 (7th Cir. 2024). On December 30, 2022, while Haire was incarcerated at Waupun Correctional Center, his cellmate attacked him. The cellmate punched him, kicked him, and slammed him into a bed frame, opening a severe gash on one side of his head. The cellmate also destroyed Haire's television and headphones. Haire now asserts that correctional officers stood nearby and did not intervene to restrain his cellmate or end the attack. As a result of the attack, Haire was placed in restrictive housing and later spent months in secure confinement during a prison lockdown.

On January 13, 2023, while in restrictive housing, Haire submitted an inmate complaint (#2023-769) about the destruction of his property. He complained that his cellmate attacked him and broke his television and headphones while five correctional officers stood outside the cell door. He asked that his cellmate buy him a new television. The prison's complaint administrator denied his claim. Haire appealed to the complaint administrator, but the appeal was denied.

On June 14, 2023, Haire submitted a second inmate complaint (#2023-9111), charging prison staff with failing to protect him during the attack. He wrote that correctional officers should have restrained his cellmate and taken the cellmate to the mental health ward. The administrator denied the inmate complaint as untimely because Haire had neither submitted it within 14 days of the incident nor provided good cause for the delay. WIS. ADMIN. CODE DOC § 310.07(2) (2018). He did not appeal the denial.

Haire then brought this suit, asserting an Eighth Amendment claim that prison officials had failed to protect him from harm during the attack, along with a supplemental state-law negligence claim. *See* 42 U.S.C. § 1983. The defendants moved for summary judgment on the grounds that Haire failed to exhaust his administrative remedies under the Prison Litigation Reform Act because he did not submit complaint #2023-9111 within the requisite 14 days and, alternatively, failed to appeal the denial of that complaint. Haire opposed the motion, asserting that (1) he could not comply with the deadline because he was in restrictive housing and could not obtain a complaint form; (2) while in restrictive housing and after being released into general population, he did not have access to the inmate handbook containing the exhaustion rules; and (3) he had adequately raised the failure-to-intervene claim in complaint #2023-769, his timely complaint about property damage.

The district court granted the defendants' motion. The court agreed with the defendants that Haire failed to timely file an inmate complaint over the incident and then neglected to take an administrative appeal of the denied complaint #2023-9111. To the extent Haire thought that his first complaint about lost property served to exhaust his failure-to-protect claim, the court rejected the argument, explaining that nothing in that submission clearly identified a failure-to-protect issue—his mention of the correctional officers was only to confirm his version of events and establish the relief he wanted (restitution from the cellmate for the property damage).

On appeal, Haire first asserts that complaint #2023-769 served to exhaust his administrative remedies because he filed it “to the best of his knowledge,” given his lack of access to an administrative handbook. But in complaint #2023-769, which addressed only the destruction of Haire’s television and headphones during the attack, Haire did not give the prison “notice of, and an opportunity to correct, a problem.” *Turley v. Rednour*, 729 F.3d 645, 650 (7th Cir. 2013). This complaint focused on the fact that he wanted his cellmate to purchase a new television for him. Nowhere in the complaint did Haire allege that any prison guards had reason to know that an attack might occur and failed to take appropriate measures to prevent it. *See Doxtator v. O'Brien*, 39 F.4th 852, 864–65 (7th Cir. 2022). That is fatal to his claim because Wisconsin’s administrative procedure requires inmates to identify one single issue per complaint, WIS. ADMIN. CODE DOC § 310.07(5) (2018), and the issue identified in complaint #2023-769 was a dispute between inmates.

Next, Haire argues that he had good cause for filing complaint #2023-9111 six months late, citing his lack of access to inmate complaint forms and the administrative handbook while he was in restrictive housing, and loss of the handbook even after he was released into general population. But Haire did not comply with the prison’s administrative rules, which required that he “request to file a late complaint in the written complaint and explicitly provide the reason for the late filing.” WIS. ADMIN. CODE DOC § 310.07(2) (2018). In complaint #2023-9111, he did not mention inaccessible complaint forms or lack of access to his handbook as reasons for the delay; in fact, in that complaint he gave no explanation for the untimely submission. And on appeal, Haire tries to show good cause through conclusory, unsworn statements, but these are insufficient to avoid summary judgment. *See Daugherty v. Page*, 906 F.3d 606, 611 (7th Cir. 2018).

AFFIRMED