

NONPRECEDENTIAL DISPOSITION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 May 19, 2025*

Decided May 19, 2025

Before

DIANE S. SYKES, *Chief Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2562

ANTHONY MARTIN,
Plaintiff-Appellant,

v.

ZARAK THOMPSON, et al.,
Defendants-Appellees.

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

No. 2:23-cv-00408-JRS-MG

James R. Sweeney II,
Judge.

ORDER

Anthony Martin, an Indiana prisoner, sued four prison guards and a nurse at Wabash Valley Correctional Facility, alleging that the guards beat him, and the nurse then refused him medical treatment in violation of his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. The district judge entered summary judgment for 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).

defendants because Martin had not exhausted his administrative remedies before filing suit. We affirm.

On January 16, 2021, Officers Zarak Thompson and Christopher Cupp escorted Martin to a medical visit. During the visit, Officer Nichalous Donovan arrived and said that he had just searched Martin's cell and seized his legal documents. Martin told Donovan the search violated the prison's policies, and Donovan responded by allegedly punching Martin in the face. Cupp and Thompson joined in, ramming Martin's head into a wall, and Sergeant Eric Drada choked him. While taking Martin back to his cell, Donovan hit him again. The same day, Martin asked Nurse Lauren Cupp to treat his injuries after the alleged beating, but she refused.

Under the prison's rules, inmates must submit a formal grievance within ten business days of the events underlying the grievance. IND. DEP'T OF CORR., POL'Y & ADMIN. PROC. NO. 00-02-301 § X (2020). For Martin, that meant he had to submit a grievance about the alleged beating and refusal of medical treatment no later than February 1, 2021.

At the time of the alleged beating, however, Martin was prohibited from filing any non-emergency grievances because he had been placed on "grievance abuser status" until January 20, 2021. While on this status and before the alleged beating, Martin submitted three unrelated grievances. Each grievance was returned to him, citing the restriction and informing Martin that the restriction would end on January 20.

Between January 20, when Martin's filing restriction was lifted, and February 1, the deadline to file a grievance about the alleged beating, Martin filed six grievances. Each grievance was received and considered by the Offender Grievance Specialist.

One grievance filed during this time related to the events on January 16. But in that grievance, Martin alleged only "ongoing harassment and retaliation," and that "Officer Donovan searched my cell leaving it destroyed" and stole two files containing legal documents. The grievance did not allege that the officers physically assaulted Martin or that he was denied medical attention afterward. The grievance was found to be unsubstantiated, and Martin appealed through the highest level of review.

Martin then sued the officers and nurse involved in the assault and denial of medical care. The district judge screened the complaint, *see* 28 U.S.C. § 1915A, and allowed Martin to proceed against Officers Cupp, Thompson, and Donovan, and

Sergeant Drada for violating his rights under the Eighth Amendment by using excessive force, and for state-law claims of battery and intentional infliction of emotional distress. The judge also allowed Martin to pursue a federal claim against Nurse Cupp for violating his rights under the Eighth Amendment by acting with deliberate indifference to his medical needs and a state-law claim of medical negligence.

About one month after the defendants were served with process, an attorney for the officer defendants submitted a notice explaining that Officer Cupp had passed away on March 19, 2022—several months before Martin initiated this lawsuit. Martin responded by moving to substitute Officer Cupp with his successor or estate. The judge denied the motion because he was unable to identify a proper party to substitute: Martin had not provided any information regarding an estate, and the judge could not find an estate after searching Indiana probate proceedings.

The officer defendants then moved for partial summary judgment, arguing that Martin had not exhausted his administrative remedies. Nurse Cupp moved to join the motion for summary judgment, but she did so after the deadline for filing a dispositive motion on an exhaustion defense had passed. Nevertheless, the judge granted Nurse Cupp’s motion because Martin did not oppose it. The judge then entered partial summary judgment for the defendants. The judge concluded that the grievance process was available to Martin for several days after his grievance restriction was lifted, but he had not filed a grievance regarding his allegations of excessive force and denial of medical care. The judge later relinquished jurisdiction over the state-law claims.

Martin appeals. We review *de novo* the entry of summary judgment for failure to exhaust administrative remedies. *Williams v. Rajoli*, 44 F.4th 1041, 1045 (7th Cir. 2022). The Prison Litigation Reform Act requires that a prisoner exhaust all available administrative remedies before filing a lawsuit against prison officials. 42 U.S.C. § 1997e(a). To meet this requirement, a prisoner must comply with the prison’s grievance procedure, as defined by state law. *Jones v. Bock*, 549 U.S. 199, 204 (2007); *Lockett v. Bonson*, 937 F.3d 1016, 1025 (7th Cir. 2019). A grievance process is unavailable if (1) officials who process grievances are unable or consistently unwilling to provide relief; (2) the process is so opaque that it cannot be used by an ordinary prisoner; or (3) officials actively thwart a prisoner’s access to the grievance process. *Ross v. Blake*, 578 U.S. 632, 643–44 (2016).

Martin first argues that the grievance process was unavailable to him because his “grievance abuser status” prevented him from filing grievances. We disagree. Martin’s

restriction was lifted on January 20, nine business days before the February 1 deadline to file his grievance. And in that period, he filed six grievances that were considered by the grievance specialist. Martin does not otherwise explain how the grievance process was unavailable to him from January 20 to February 1.

Although the grievance process was available to Martin, he failed to exhaust it. True, one grievance he filed referenced the January 16 search of his cell by Officer Donovan and ongoing harassment. But the Indiana Department of Correction requires that a grievance clearly identify the event and explain how the incident affected the prisoner. *See* IND. DEP'T OF CORR., POL'Y & ADMIN. PROC. NO. 00-02-301 § X (2020). And at a minimum the grievance had to "provide[] notice to the prison of 'the nature of the wrong for which redress is sought.'" *Schillinger v. Kiley*, 954 F.3d 990, 995 (7th Cir. 2020) (quoting *Strong v. David*, 297 F.3d 646, 650 (7th Cir. 2002)). The grievance here made no mention of the alleged assault or the failure to provide medical care, so it did not give the prison notice and an opportunity to address those issues.

Martin next argues that the district judge erred by granting Nurse Cupp's untimely motion to join the officer defendants' motion for summary judgment. But the decision whether to excuse a missed deadline is left to the district judge's discretion. *See Miller v. Chi. Transit Auth.*, 20 F.4th 1148, 1153 (7th Cir. 2021). And we see no abuse of discretion here. Martin insists that he suffered prejudice because he never received a copy of the motion and so could not respond to it. But Nurse Cupp attached to her motion a certificate of service stating that a copy of the motion was mailed to Martin's last known address. *See* FED. R. CIV. P. 5(b)(2)(C) (providing that "service is complete upon mailing"); *see also Trade Well Int'l v. United Cent. Bank*, 825 F.3d 854, 860 (7th Cir. 2016). Martin had ample time to respond to the motion and did not. Without any objection from Martin, the district judge properly exercised his discretion to accept the late motion.

Finally, Martin argues that the district judge erred when he denied the motion to substitute Officer Cupp's estate as a party under Rule 25(a)(1) of the Federal Rules of Civil Procedure. Martin disagrees with the district judge's conclusion that substitution could not occur where Martin failed to identify a proper party to substitute, and the judge could not locate any such party. Regardless, any claim against Officer Cupp's estate would have failed because, as already discussed, Martin did not exhaust his administrative remedies related to the January 16 assault.

AFFIRMED