

NONPRECEDENTIAL DISPOSITION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 11, 2025*

Decided December 12, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 25-1186

TORRENCE BELCHER,
Plaintiff-Appellant,

v.

WILLIAM RUCKER, et al.,¹
Defendants-Appellees.

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

No. 3:24-CV-561-CCB-MGG

Cristal C. Brisco,
Judge.

* 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).

¹ Counsel for defendants have captioned this case as *Torrence Belcher v. Indiana State Prison, et al.* The inclusion of Indiana State Prison is both inappropriate, as units of state government are not subject to suits for damages under 42 U.S.C. § 1983, *see Will v. Michigan Department of State Police*, 491 U.S. 58 (1989), and unnecessary in light of the fact that plaintiff named four persons in their individual capacities.

ORDER

Torrence Belcher, an Indiana prisoner, sued the prison where he is incarcerated and two unnamed dentists, alleging they denied him appropriate dental care in violation of his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. At screening the district judge dismissed Belcher’s complaint for failure to exhaust administrative remedies. *See* 42 U.S.C. § 1997e(a). We affirm.

We construe the facts in the light most favorable to Belcher, the nonmoving party. *Moore v. W. Ill. Corr. Ctr.*, 89 F.4th 582, 590 (7th Cir. 2023). According to Belcher, in March 2024, he went to the dentist because a rotting tooth was causing pain and bleeding in his mouth. The dentist told him that the tooth would need to be pulled, and that the office would call him back for this procedure. By July 8, he had yet to be called so he returned to the dentist’s office. A different dentist told Belcher the tooth was infected and needed to be pulled. The dentist placed Belcher on a four-to-five-week waiting list. Following this appointment, Belcher filed a grievance with the Indiana State Prison.² Two days later, he filed a § 1983 complaint in the district court alleging deliberate indifference to his medical needs.

The district judge screened the complaint under 28 U.S.C. § 1915A and dismissed Belcher’s claims, concluding that he had failed to exhaust his administrative remedies. Even if the grievance process was taking too long, as Belcher asserted, the judge reasoned that Belcher needed to pursue the emergency grievance protocol. Because he had not done so, the judge dismissed the case without prejudice. She also denied Belcher leave to amend his complaint because no amendment could cure the failure to exhaust.

Belcher filed motions to reconsider the judgment and requested the court to recruit counsel. On the motion to reconsider, Belcher argued that his grievance should be considered an emergency because he had not received a response in thirty days. But the judge found that even with the delay, the grievance process had not been exhausted—it had only just begun. On the motion to recruit counsel, the judge found

² In his complaint, Belcher alleged that he had not filed a grievance. But he attached a copy of the grievance filed on July 8, 2024, to the complaint, and “when an exhibit . . . ‘incontrovertibly contradicts the allegations in the complaint, the exhibit ordinarily controls, even when considering a motion to dismiss.’” *See Esco v. City of Chicago*, 107 F.4th 673, 679 (7th Cir. 2024) (quoting *Bogie v. Rosenberg*, 705 F.3d 603, 609 (7th Cir. 2013)).

that Belcher made no attempt to obtain counsel on his own. She therefore denied both motions, and Belcher now appeals.

On appeal, Belcher reasserts his deliberate-indifference claim and argues that the grievance process was unavailable to him. We review a dismissal under 28 U.S.C. § 1915A(b)(1) de novo. *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). Although failure to exhaust is an affirmative defense, a district court may dismiss a complaint at screening if the complaint establishes the defense so plainly as to make the suit frivolous. *See Epstein v. Epstein*, 843 F.3d 1147, 1150 (7th Cir. 2016); *Gleash v. Yuswak*, 308 F.3d 758, 760–61 (7th Cir. 2002).

To exhaust administrative remedies properly under the Prison Litigation Reform Act, 42 U.S.C. § 1997e, a prisoner must complete every step of the prison’s grievance process. *See Jones v. Bock*, 549 U.S. 199, 218 (2007); *Woodford v. Ngo*, 548 U.S. 81, 89–93 (2006). When a prisoner is incarcerated in a state facility, state law governs the process. *See Lanaghan v. Koch*, 902 F.3d 683, 687 (7th Cir. 2018). Indiana’s grievance process is composed of three steps: a formal grievance, a written appeal to the warden or his designee, and a written appeal to the department grievance manager. *See* IND. DEP’T OF CORR., ADMIN. P. NO. 00-02-301, § IV. There is also a separate process for emergency grievances, which are reviewed within one day of submission. *Id.* § IV(C).

Belcher was required to either complete all three steps of the grievance process or file an emergency grievance. *See Williams v. Ortiz*, 937 F.3d 936, 941 (7th Cir. 2019). He did neither. Although Belcher contends that the usual grievance process was unavailable to him, and he is therefore excused from using it, he has not alleged that he made any attempt to appeal. Rather, Belcher’s own submission reflects that after filing his grievance, only two days passed before he filed his complaint. He did not receive a response from prison officials within that two-day period. Because he alleges no facts that the process was a “dead end” or that he had to contend with unknowable procedures or intentional obstructions, Belcher has not plausibly alleged that the grievance process was unavailable to him. *See Ross v. Blake*, 578 U.S. 632, 642–44 (2016). And he does not contend that he filed an emergency grievance at any time. Accordingly, Belcher did not exhaust his administrative remedies.

Belcher also raises new allegations against Centurion Health, two named dentists, and grievance specialist Joshua Wallen. But we do not consider issues raised for the first time on appeal. *See Henry v. Hulett*, 969 F.3d 769, 785 (7th Cir. 2020) (en banc).

AFFIRMED