

NONPRECEDENTIAL DISPOSITION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 January 20, 2026*
Decided January 21, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2323

LUCIEN S. MCARTHUR,
Plaintiff-Appellant,

Appeal from the United States District
Court for the Central District of Illinois.

v.

No. 1:21-cv-01171-JES

LEONTA L. JACKSON, et al.,
Defendants-Appellees.

James E. Shadid,
Judge.

O R D E R

Lucien McArthur, an Illinois prisoner, sued ten nurses, the warden of his prison, and Wexford Health Sources, Inc., alleging they were deliberately indifferent to his COVID-19 infection and pneumonia 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, concluding that McArthur had not exhausted his administrative remedies before filing suit. *See 42 U.S.C. § 1997e(a)*. We affirm.

We review de novo the entry of summary judgment for failure to exhaust administrative remedies, construing the facts and drawing all reasonable inferences in favor of McArthur, as the non-moving party. *See Williams v. Rajoli*, 44 F.4th 1041, 1045 (7th Cir. 2022). In May 2020, McArthur was diagnosed with COVID-19. For ten days after his diagnosis, he told nurses that he was getting sicker and having trouble breathing. Nurses gave him cold medication once but did not provide further aid. Finally, on the tenth day, McArthur received a sick call pass to see a nurse practitioner. The nurse practitioner found his vitals abnormal, and McArthur was taken to the emergency room. He spent ten days in the intensive care unit being treated for pneumonia.

Between January 2020 and November 2021, McArthur submitted numerous administrative grievances but only one related to this lawsuit. In that grievance, filed in June 2020, McArthur stated that nurses ignored his complaints of difficulty breathing for 10 days, and as a result, he suffered damage to his lungs from the pneumonia. He sent this grievance first to his institutional counselor as required by prison rules. ILL. ADMIN. CODE tit. 20, § 504.810(a). McArthur alleges he did not receive a written response from his counselor before the counselor forwarded it to the grievance office three days later. *See* § 504.830(a), (e). The grievance office found that McArthur was receiving appropriate medical treatment and thus recommended that the Chief Administrative Officer find the grievance moot. On July 27, 2020, the Chief Administrative Officer issued a final decision in concurrence with the grievance officer's recommendation. § 504.830(e).

On August 19, McArthur inquired about the status of his grievance and was told that it was finalized on July 27, and he had been sent the decision in the mail. McArthur alleged that he waited but did not receive a copy of the final decision in the mail. On October 8, McArthur asked his institutional counselor for a copy of the finalized decision. The counselor referred him to the grievance office, which then referred him to the records office. McArthur submitted a written request to the records office asking for a copy of the decision on October 13. He received the copy on October 19. A few days later, McArthur sent a letter to the Administrative Review Board complaining that the prison's administrative remedies were made unavailable to him because he did not receive a copy of the final decision and had to request it. McArthur submitted an appeal dated October 25, 2020. The Board rejected his appeal, explaining that he did not submit

it within 30 days of the Chief Administrative Officer's decision as required. *See* § 504.850(a).

In June 2021, McArthur sued Wexford, Warden Leonta Jackson, and ten nurses, alleging they acted with deliberate indifference when they failed to treat him in a timely fashion after he complained of difficulty breathing. Wexford and a nurse employed by Wexford moved for summary judgment, arguing that McArthur failed to exhaust his administrative remedies. In response, McArthur argued that the grievance process was unavailable to him. The district judge granted the motion for summary judgment because McArthur did not timely submit his grievance to the Board and failed to include any factual details in his grievance about the policy that caused the alleged violation of his rights under the Eighth Amendment. Jackson and the other nurses then moved for summary judgment on the same grounds. The judge then granted summary judgment to the remaining defendants.

McArthur appeals and first argues that the grievance process was unavailable to him because his counselor forwarded the grievance to the grievance office without first sending it back to him and because he did not receive a copy of the final decision. A grievance process is unavailable to inmates (1) where officials are "unable or consistently unwilling to provide any relief to aggrieved inmates" such that the procedure "operates as a simple dead end"; (2) where the process is "so opaque" that it is "practically speaking, incapable of use"; or (3) where officials "thwart inmates from taking advantage of a grievance process through machination, misrepresentation, or intimidation." *Ross v. Blake*, 578 U.S. 632, 643–44 (2016). McArthur's evidence does not suggest that any of those circumstances existed here. While the process is unavailable if the prison does not ever respond to a prisoner's grievance, *Dole v. Chandler*, 438 F.3d 804, 809 (7th Cir. 2006), McArthur does not dispute that on August 19, the prison responded to his inquiry about the status of his grievance and told him that he had been mailed a final decision on July 27. At this time, he still had one week to inquire about the final decision and file an appeal within the 30-day deadline. Instead, he waited almost two months before seeking a copy of the decision and filing an appeal because he wanted to speak personally with his counselor about the situation. But he should have "err[ed] on the side of exhaustion," *see Williams*, 44 F.4th at 1045–46 (quoting *Ross*, 578 U.S. at 644), and made efforts to appeal the decision within the 30 days required by the prison's rules. *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002). McArthur does not contend that good cause should excuse the delay in filing the appeal.

McArthur contends alternatively that he substantially complied with the prison's grievance procedures, so his administrative remedies should be considered exhausted. But the Prison Litigation Reform Act's exhaustion requirement is inflexible, and there is no "substantial compliance" exception. *See Smith v. Zachary*, 255 F.3d 446, 452 (7th Cir. 2001).

AFFIRMED