

NONPRECEDENTIAL DISPOSITION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 9, 2025*

Decided May 23, 2025

BeforeMICHAEL Y. SCUDDER, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1351

MICHAEL A. THOMAS,
*Plaintiff-Appellant,**v.*MICHAEL KOLHOUSE and PARKER
TROMLEY,
*Defendants-Appellees.*Appeal from the United States District
Court for the Southern District of
Indiana, Terre Haute Division.

No. 2:22-cv-00578-JMS-MG

Jane Magnus-Stinson,
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).

O R D E R

Michael Thomas, an Indiana prisoner, appeals the summary judgment entered against him for failing to exhaust his administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) (“PLRA”). Because administrative remedies were available to Thomas, and he presented no evidence rebutting the defendants’ exhaustion defense, we affirm.

In his complaint under 42 U.S.C. § 1983, Thomas alleged that staff members at Knox County Jail—where he was a pretrial detainee at the relevant times— applied excessive force and subjected him to inhumane conditions of confinement, in violation of his rights under the Fourth and Fourteenth Amendments. He asserts that he was violently placed in a padded cell where he remained for three days, during which he faced unsanitary conditions and was deprived of water.

The jail used kiosks through which prisoners could electronically submit general requests, medical requests, and grievances. The record shows that Thomas filed several general and medical requests, and one grievance, this way. As it appears in the record, the entirety of the grievance, filed in January 2022, reads “THANK YOU!”

After answering Thomas’s complaint, the defendants moved for summary judgment on the ground that he failed to exhaust his administrative remedies. Defendant Michael Kolhouse, a jail officer, supplied what he said was a complete set of Thomas’s kiosk submissions; it included two medical requests, seven general requests, and the single grievance. Yet Kolhouse attested that he “did not locate a grievance or other submission sent to request@knoxcounty.in.gov pertaining to a use of force or confinement in the padded cell” and that he located only “the attached general and medical requests.” Insofar as the single grievance did not say anything about the use of force or cell conditions, Kolhouse’s statement is accurate, but it was not correct to say that only general and medical requests had been discovered and attached. And, in their motion for summary judgment, the defendants asserted that a search of the jail’s former database had uncovered *no* grievances filed by Thomas, which is incorrect.

After receiving two extensions of time to respond to the summary judgment motion, Thomas filed a letter to the district court asserting that he needed to subpoena the sheriff because he and the defendants were not producing other materials he had requested. He attached a copy of the January 2022 grievance to this letter. (The defendants acknowledged this in their reply brief but did not retract the assertion that he had not filed any grievances.) Thomas asked for another extension to develop a

complete record before responding to the motion for summary judgment. The district court granted a third and final extension and warned Thomas that it would treat the summary judgment motion as unopposed if he missed the deadline. After Thomas failed to file a response, the district court granted the motion, stating that there was no record of Thomas submitting a grievance and concluding that Thomas failed to produce any admissible evidence to the contrary. Thomas appeals.

We review de novo the grant of summary judgment based on a failure to exhaust available administrative remedies. *Gooch v. Young*, 24 F.4th 624, 626 (7th Cir. 2022). A jail's grievance procedures define what steps inmates must take to exhaust, *Jones v. Bock*, 549 U.S. 199, 218 (2007), all of which a plaintiff must complete before suing, *see Ross v. Blake*, 578 U.S. 632, 638 (2016); 42 U.S.C. § 1997e(a). The defendants bear the burden of proving the affirmative defense of a failure to exhaust, *Gooch*, 24 F.4th at 627, even though Thomas failed to respond to the summary judgment motion, *see Raymond v. Ameritech Corp.*, 442 F.3d 600, 608 (7th Cir. 2006).

On appeal, Thomas argues that the defendants intentionally obscured the existence of his January 2022 grievance and that the district court erred in granting summary judgment based on the misrepresentation that he never filed any grievances. For their part, the defendants concede that their earlier assertion that Thomas had not filed any grievances was incorrect. But they contend that the one grievance did not effectively exhaust any claim, and that Thomas has no evidence of other grievances.

Thomas correctly asserts that the defendants and district court were inaccurate about whether he had filed any grievances; indeed, the defendants placed the January 22 grievance in the summary judgment record. Nevertheless, on de novo review, we have no problem concluding that Thomas did not raise any material dispute of fact about whether he exhausted. Thomas's grievance did not include an explanation of the situation he alleges, as Indiana law requires. *See IND. DEP'T OF CORR., ADMIN. P. No. 00-02-301*, § X.A.6 (requiring that prisoner grievances explain the situation or incident). And although the jail's handbook is silent regarding the level of specificity required in a grievance, the PLRA requires sufficient detail "to put the prison and individual officials on notice of the claim." *Jones*, 549 U.S. at 205. Further, we have held that this notice requirement stands even when the administrative code or jail handbook says nothing about "the contents of a grievance or the necessary degree of factual particularity." *Strong v. David*, 297 F.3d 646, 650 (7th Cir. 2002) (Illinois grievance procedures); *see Schillinger v. Kiley*, 954 F.3d 990, 995 (7th Cir. 2020) (Wisconsin grievance procedures). Because Thomas's grievance was devoid of substantive content

No. 24-1351

Page 4

related to the allegations in this suit, it did not provide notice to jail officials of his complaints, and so he failed to exhaust his administrative remedies.

Thomas argues in various ways that the defendants altered the text of his grievance or withheld evidence of additional grievances. But to create a genuine dispute of material fact, Thomas needed to cite admissible evidence in the record supporting these assertions, such as an affidavit attesting to submitting another grievance or describing the supposed deleted material. *See* FED. R. CIV. P. 56(c). He did not swear to anything like this, however (nor did he swear that the January 2022 grievance contained more information when he submitted it, though he suggests as much in various filings). *See Jones v. Lamb*, 124 F.4th 463, 468 (7th Cir. 2024) (to create a material dispute regarding exhaustion of remedies a prisoner must cite the record). In the end, the existence of a single non-substantive grievance and Thomas’s unsworn assertions are not enough to preclude summary judgment.

Finally, Thomas argues that the jail did not make administrative remedies available to him. Relying on *Gooch*, Thomas asserts that by not providing him with a specific paper form, officials rendered administrative remedies unavailable, and therefore, he was not required to exhaust. *See Gooch*, 24 F.4th at 627 (citing *Ross*, 578 U.S. at 635). But the PLRA does not mandate specific procedures; prison regulations define what is (and is not) required of an inmate to “properly” exhaust. *Jones*, 549 U.S. at 218. Thomas does not contend that he was prevented from accessing the kiosk, and the record shows that he used it multiple times to submit requests; therefore, no reasonable jury could find that the lack of a paper form — even if the handbook at the time contemplated paper grievances — prevented him from exhausting his administrative remedies.

AFFIRMED