

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ROSCOE LORENZO COATES,

Plaintiff,

v.

Lieutenant SWINT, *et al.*,

Defendants.

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Case No. 5:25-cv-88-MTT-ALS

RECOMMENDATION

Plaintiff brought this *pro se* action pursuant to 42 U.S.C. § 1983 on March 5, 2025. (Doc. 1). Pending before the Court is Defendants’ Motion to Dismiss. (Doc. 16). For the reasons which follow, the Court recommends that the Motion be denied.

Background

Plaintiff alleges in relevant part that, in May of 2024, he was beaten by an inmate at Washington State Prison (“WSP”), which resulted in severe pain in his left ribs. (Doc. 6, at 6). Plaintiff contends that Defendants Lieutenant Swint and Sergeant Kitchens failed to provide medical treatment. *Id.* at 4, 6-8. After some delay at the hospital, medical tests showed that Plaintiff had broken ribs, which resulted in pain and suffering, for which Plaintiff was not provided with any pain medication. *Id.* at 8-9. Plaintiff contends that he still has broken and fractured ribs. *Id.* at 12. As a result, Plaintiff seeks damages and injunctive relief. *Id.* On preliminary review of Plaintiff’s Amended Complaint, the Court allowed Plaintiff’s Eighth Amendment claims for deliberate indifference to a serious medical need against Defendants Swint and Kitchens to proceed for further factual development. (Docs. 1, 6, 9).

Discussion

Defendants filed a Motion to Dismiss, arguing that Plaintiff's Amended Complaint should be dismissed because Plaintiff's claims are barred by the Prison Litigation Reform Act ("PLRA") due to Plaintiff's failure to exhaust his administrative remedies. (Doc. 16). Plaintiff filed a timely Response, to which Defendants filed a timely Reply. (Docs. 18, 19). Defendants' Motion is ripe for a recommendation.

Exhaustion Standards

The Prison Litigation Reform Act ("PLRA") provides that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). When a grievance procedure is provided for prisoners, "an inmate alleging harm suffered from prison conditions must file a grievance and exhaust the remedies available under that procedure *before* pursuing a § 1983 lawsuit." *Brown v. Sikes*, 212 F.3d 1205, 1207 (11th Cir. 2000) (emphasis added). Exhaustion of administrative remedies requires compliance with an agency's procedural rules. *Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006). "To exhaust administrative remedies in accordance with the PLRA, prisoners must properly take each step within the administrative process. If their initial grievance is denied, prisoners must then file a timely appeal." *Bryant v. Rich*, 530 F.3d 1368, 1378 (11th Cir. 2008) (internal citation and quotation marks omitted). "The level of detail necessary in a grievance to comply with the grievance procedures will vary from system to system and claim to claim, but it is the prison's requirements, and not the PLRA, that define the boundaries of proper exhaustion." *Jones v. Bock*, 549 U.S. 199, 218 (2007). "The critical function of the grievance process is that it provides the institution with notice of a problem such that they

have an opportunity to address the problem internally.” *Toenniges v. Ga. Dep’t of Corr.*, 600 F. App’x 645, 649 (11th Cir. 2015).

“[D]eciding a motion to dismiss for failure to exhaust administrative remedies is a two-step process.” *Turner v. Burnside*, 541 F.3d 1077, 1082 (11th Cir. 2008). “First, the court looks to the factual allegations in the defendant’s motion to dismiss and those in the plaintiff’s response, and if they conflict, takes the plaintiff’s version of the facts as true.” *Id.* If, taking the plaintiff’s facts as being true, the defendant is entitled to dismissal for failure to exhaust, then the complaint should be dismissed. *Id.* “If the complaint is not subject to dismissal at the first step . . . the court then proceeds to make specific findings in order to resolve the disputed factual issues related to exhaustion.” *Id.* The defendant bears the burden of proof during this second step. *Id.* In resolving the factual dispute, a court is authorized to make credibility determinations. *See Bryant*, 530 F.3d at 1377-78 (finding district court did not clearly err in determining plaintiff’s allegation that he was denied access to grievance forms was not credible); *see also Whatley v. Smith*, 898 F.3d 1072, 1082-83 (11th Cir. 2018) (upholding district court’s weighing of the evidence and credibility determination to find that one of the inmate’s grievances was not filed). Further, since dismissal for failure to exhaust is not an adjudication on the merits, the court can resolve factual disputes using evidence from outside the pleadings. *Bryant*, 530 F.3d at 1376-77.

TURNER Step One

Defendants maintain that Plaintiff failed to properly grieve his claims against them before filing this lawsuit, but they concede that Plaintiff’s Amended Complaint is not subject to dismissal under *Turner* Step One. (Doc. 16, at 3-5). Therefore, the Court proceeds to the second *Turner* step and makes specific findings based upon the evidence

as submitted by the parties and resolves the disputed factual issues related to exhaustion.

TURNER Step Two: Specific Findings

In support of their Motion, Defendants submit the declaration of Tarra Jackson, the Deputy Warden of Care and Treatment at WSP, with responsibility for “ensuring compliance with the grievance procedure” at WSP. (Doc. 16-1, at 1). In relevant part, attached to Ms. Jackson’s declaration are the Georgia Department of Corrections’ (“GDC”) statewide grievance procedure, Plaintiff’s grievance history, and Plaintiff’s grievance documentation related thereto. *Id.* at 6-30.

The GDC’s grievance policy applies to all offenders committed to the GDC. *Id.* at 6. The policy requires an offender to complete a two-step process consisting of first filing an original grievance and then filing a central office appeal. *Id.* at 13. At the first step, the offender’s grievance may be submitted electronically through a kiosk or tablet, or it may be submitted on paper on the GDC’s required Grievance Form. *Id.* An offender must submit a grievance within ten (10) calendar days from the date the offender knew, or should have known, of the facts giving rise to the grievance. *Id.* Grievances filed later than ten (10) days are only considered upon a showing of “Good Cause.” *Id.*

Once the offender submits the grievance, the Warden has forty (40) calendar days from the date of submission to respond, although a ten (10) calendar day extension may be granted upon advising the offender prior to the expiration of the original forty (40) calendar days. *Id.* at 16. At the second step, after the Warden has responded, or the time in which the Warden was required to respond has expired, the offender must file an appeal. *Id.* at 19. The Commissioner then has 120 calendar days after the appeal is submitted in which to respond. *Id.* at 20.

Ms. Jackson declares that Plaintiff filed Grievance No. 376928 on January 14, 2025, grieving the alleged lack of medical treatment for his ribs following his injury in May 2024. (Doc. 16-1, at 4). On January 28, 2025, Ms. Jackson states that the Warden rejected the grievance because it was untimely, and as a result, the merits of the grievance were not considered at WSP. *Id.* Plaintiff received the Warden's rejection on January 29, 2025, and on February 3, 2025, Plaintiff filed an appeal of the Warden's rejection based on an untimely grievance. *Id.* Ms. Jackson contends that, on February 5, 2025, the Central Office denied the appeal of Grievance No. 376928 because the grievance was untimely and was rejected at WSP on that basis, and as a result, the Central Office also did not consider the merits of the grievance. *Id.* at 4-5. Plaintiff received notice of the Central Office's denial on February 7, 2025. *Id.* at 5. The grievance documentation submitted in support of Ms. Jackson's declaration mirrors her allegations. *Id.* at 29-30.

Plaintiff's Response to Defendants' Motion includes a copy of receipts he received when he filed Grievance No. 376928. (Doc. 18-1, at 1). Plaintiff also attached a copy of the Central Office's denial of Grievance No. 376928. *Id.* at 2.

TURNER Step Two: Resolving Disputed Factual Issues

Considering the facts and evidence, the Court makes the following findings to resolve the disputed factual issues. The Court finds that Defendants have not carried their burden to show that Plaintiff failed to exhaust his administrative remedies prior to filing this court action.

Plaintiff contends he was attacked and injured in May 2024, and that Defendants were deliberately indifferent to those injuries by failing to provide him with medical care after he allegedly received those injuries. (Doc. 6, at 6-10). Defendants argue that Plaintiff's grievance related to the May 2024 attack and injuries was untimely because he filed

Grievance No. 376928 in January 2025, which was not within the ten (10) days permitted by WSP's Grievance Procedure. (Doc. 16, at 4). The Court disagrees for two reasons.

First, “the Court is required to find a grievance unexhausted under the PLRA only ‘[i]f a state’s last administrative body denie[d] [the] grievance for *valid procedural reasons*.’” *Gates v. McKenzie*, No. 5:23-cv-25 (MTT), 2024 WL 4818328, at *4 (M.D. Ga. Nov. 18, 2024) (alterations in original) (quoting *Whatley v. Warden, Ware State Prison*, 802 F.3d 1205, 1216 (11th Cir. 2015)). Here, the Central Office’s denial of Grievance No. 376928 as untimely was not a valid procedural reason. The Central Office apparently based its decision that Plaintiff’s grievance was untimely on the date of Plaintiff’s injuries: May 2024. However, in Grievance No. 376928, Plaintiff states that the medical care that he received – Tylenol 3 pain reliever – did not rectify the disfigurement of his ribs allegedly caused by the assault in May 2024. (Doc. 16-1, at 29). Further, Plaintiff explicitly states that he is “still in pain.” *Id.* As Plaintiff made clear in Grievance No. 376928, it was not the original attack and injuries that occurred in May 2024 that he was attempting to grieve. Instead, he was grieving the continued lack of medical care for the injuries that he received in May 2024. *See Gates*, 2024 WL 4818328, at *4 (“The fact that Gates was seen by medical in early May was relevant to the grievance only to the extent it showed the length of time the prison was continuing to withhold medical care; in other words, the May appointment was not the issue giving rise to the grievance.”). Nothing in the record currently before the Court shows that Plaintiff “did not timely grieve the failure to treat his ongoing medical issue.” *Id.* Accordingly, the Court finds that Defendants failed to meet their burden to show that Plaintiff failed to exhaust his administrative remedies.

Second, even if Grievance No. 376928 was denied for a procedurally valid reason, the summary rejection of Plaintiff’s good cause request without explanation was arbitrary.

WSP's Grievance Procedure generally permits grievances to only be filed within ten (10) calendar days of the date the offender knew, or should have known, of the facts about which the offender files the grievance. (Doc. 16-1, at 13). However, grievances filed outside of that ten (10) day period may still be considered if the offender shows good cause. *Id.* The form on which paper grievances are submitted at WSP specifically instructs offenders to explain why the grievance is being submitted untimely. (*See* Doc. 21-1).

Here, Plaintiff followed those directions and thus sought a good cause extension.¹ In Grievance No. 376928, Plaintiff acknowledged that he was submitting his grievance outside the ten (10) day period because he “didn’t know the grievance process and [he] just learned it from [his] studies[.]” (Doc. 16-1, at 29). The Warden summarily rejected Grievance No. 376928, simply stating that it “was filed out of time frames [sic] as outlined in [the] policy.” *Id.* The Central Office also summarily rejected Grievance No. 376928 as untimely without addressing Plaintiff’s explanation for filing his grievance late. *Id.* at 30. In other words, the Warden and Central Office apparently did not consider Plaintiff’s request for a good cause extension.

The United States Court of Appeals for the Eleventh Circuit does not appear to have addressed the question of whether district courts can ignore or overturn a prison official’s summary rejection of a request for a good cause extension when the official has given no explanation for that rejection. “Although federal law sets the exhaustion requirement, state law determines what steps are required to exhaust.” *Dimanche v. Brown*, 783 F.3d 1204,

¹ In a virtually identical posture, the Court noted that while the prisoner did not “explicitly ask for a good cause waiver, but as the form included a section for the inmate to explain why his grievance was filed outside the . . . time limit, the clear implication is that completing this portion of the form invokes [a request for] the good cause exception.” *Black v. Rayburn*, No. 4:20-CV-249-CDL-MSH, 2021 WL 6884740, at *6 n.5 (M.D. Ga. Dec. 14, 2021), *recommendation adopted by* 2022 WL 452453 (M.D. Ga. Feb. 14, 2022). The United States Court of Appeals for the Eleventh Circuit affirmed without a meaningful discussion of the standard to show good cause. *Black v. Rayburn*, No. 22-10826, 2024 WL 64291 (11th Cir. Jan. 5, 2024).

1207 (11th Cir. 2015). “The Supreme Court has emphasized, however, that ‘it is the prison’s requirements, and not the PLRA, that define the boundaries of proper exhaustion.’” *Black v. Rayburn*, No. 4:20-CV-249-CDL-MSH, 2021 WL 6884740, at *6 (M.D. Ga. Dec. 14, 2021) (quoting *Jones*, 549 U.S. at 218). Here, in its summary denial of Grievance No. 376928, the Central Office did not indicate whether it considered Plaintiff’s good cause extension request. (Doc. 16-1, at 30). In the same procedural posture, the Court adopted the reasoning of a sister district court, stating that

“[c]ourts must give deference to prison officials regarding the interpretation and application of their own grievance procedures so long as the procedures provide inmates with a meaningful opportunity to present grievances,” and provided that the application of the grievance rules was not “clearly erroneous, arbitrary or intended to prevent plaintiff from exercising his right of access to the courts.”

Id. (quoting *Stephens v. Corizon, LLC*, No. 3:20-cv-70-PDB, 2021 WL 2981317, at *8 (M.D. Fla. July 14, 2021)). To be sure, requiring prisoners to adhere to grievance procedure deadlines is not an arbitrary act in and of itself. However, Plaintiff filed an out of time grievance and proffered an explanation for his untimely appeal, as directed by the grievance form. Yet, his initial grievance and appeal were summarily denied as untimely without an explanation or any consideration of Plaintiff’s request for a good cause extension of time. The Court finds that the Central Office’s unexplained denial was arbitrary. Consequently, the Court recommends that Defendants’ Motion to Dismiss be denied.²

² The Court notes that the paucity of evidence and argument submitted by Defendants in support of their Motion to Dismiss bore directly on the Court’s findings and recommendation in this case. First, Plaintiff argues in Grievance No. 376928 that he “just learned” the grievance procedure. (Doc. 16-1, at 29). Defendants failed to rebut that assertion. Defendants submitted a declaration stating that all offenders are given oral instructions about the grievance procedure as well as a copy of the grievance procedure. *Id.* at 2. No documentation shows that this offender received such oral instruction and copy of the procedure. Compounding that issue, except for Grievance No. 376928, Defendants did not submit any other grievance history for Plaintiff. *Id.* at 28. Plaintiff has been in GDC custody since at least 2009. *Id.* at 27. It is unlikely that Grievance No. 376928 was the very first grievance Plaintiff filed while in GDC custody, but there was no

Conclusion

Having considered the factual allegations, made findings thereof, and resolved the factual disputes in accordance with the first and second *Turner* steps, it is **RECOMMENDED** that Defendants' Motion to Dismiss (Doc. 16) be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, WITHIN FOURTEEN (14) DAYS after being served with a copy thereof. The District Judge shall make a de novo determination as to those portions of this Recommendation to which objection is made; all other portions of this Recommendation may be reviewed by the district judge for clear error. Any objection is limited in length to TWENTY (20) PAGES. *See* M.D. GA. L.R. 7.4.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, "[a] party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO RECOMMENDED, this 8th day of April, 2026.

s/ **ALFREDA L. SHEPPARD**
UNITED STATES MAGISTRATE JUDGE

other evidence to suggest otherwise. Thus, the Court credited Plaintiff's contention. Finally, Defendants failed to address the Warden and Central Office's failure to respond to Plaintiff's good cause extension request. Such unexplained rejections do not permit the Court to evaluate whether prison officials provided Plaintiff with a meaningful opportunity to present his grievance, and it is therefore arbitrary.