

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3797
Conference Calendar

JAMES BURDGES,

Plaintiff-Appellant,

versus

MARK GRAY, Corrections
Officer,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 92-CV-409-B
- - - - -

March 19, 1993
Before KING, DAVIS, and SMITH, Circuit Judges.

PER CURIAM:*

James Burdges filed this § 1983 action against Mark Gray, a corrections officer at the Louisiana State Penitentiary at Angola, alleging that Gray had filed a false disciplinary report against him. The district court held that Burdges had failed to exhaust his administrative remedies and dismissed his suit with prejudice.

Burdges argues that he is not required to exhaust administrative remedies for a § 1983 action according to Patsy v.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Board of Regents of State of Florida, 457 U.S. 496, 102 S.Ct. 2557, 73 L.Ed.2d 172 (1982) and Johnson v. King, 696 F.2d 370 (5th Cir. 1983). Burdges' reliance on these cases is misplaced. In Patsy, the Supreme Court did state that there was no general exhaustion requirement for § 1983 cases. However, the Court also noted that Congress had created an exception for prisoners' suits in the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997e. This Act created a limited exhaustion requirement for adult prisoners bringing actions pursuant to § 1983. 457 U.S. at 507-08. The exhaustion requirement applies if the Attorney General or a court certifies that a state's administrative remedies procedures are in substantial compliance with the minimum acceptable standards of § 1997e. Id. at 510-11. At the time Johnson was decided, Louisiana's disciplinary rules had not yet been certified by the Attorney General or by a court as being in substantial compliance with the standards of CRIPA. Johnson, 696 F.2d at 371.

Since then, the United States District Court for the Middle District of Louisiana has approved the procedures set up for Louisiana prisoners by the Louisiana Department of Public Safety and Corrections. See Martin v. Catalanotto, 895 F.2d 1040, 1042 (5th Cir. 1990). Therefore, Burdges was required to exhaust his administrative remedies before filing this § 1983 action.

AFFIRMED.