



## ***LGIT'S COMMANDER'S LOG***

### **March 2008**

#### **DETENTION CENTER GRIEVANCES DO NOT NEED TO NAME PARTICULAR DEFENDANTS IN ORDER TO SATISFY THE EXHAUSTION REQUIREMENTS OF THE PRISON LITIGATION REFORM ACT**

**QUESTION:** Must an inmate have named a particular defendant in his administrative grievance before filing suit against such person in court?

**ANSWER:** No. The Prison Litigation Reform Act does not expressly require inmates to name or reference specific persons in their administrative grievances. The Act merely requires an inmate to comply with existing prison grievance procedures.

**CASE:** *Michael Wayne Moore v. James B. Bennette, et al.*

United States Court of Appeals (Fourth Circuit), Decided February 28, 2008

In a recent case decided in our federal circuit, the United States Court of Appeals considered the issue of whether the exhaustion requirements of the Prison Litigation Reform Act (PLRA) require an inmate to name or reference specific individuals in an administrative grievance pursued prior to filing suit. The facts in the case established that Michael Wayne Moore was a prisoner at the Southern Correctional Institute in the North Carolina Department of Corrections (NCDOC). While he was there, a prison physician diagnosed Moore with Hepatitis C and became concerned that Moore's pancreas, which was swollen, could be cancerous. The doctor explained that Moore would need regular monitoring. Based on a perceived lack of medical care, Moore pursued an administrative grievance.

The NCDOC provides an administrative remedy procedure for prisoner complaints. Step 1 of the procedure allows for the filing of grievances on a "Form DC-410", which asks for the inmate's name, number, and location, as well as the date, a "Grievance Statement", the remedy that the inmate seeks, and the inmate's signature. Under the rules, the inmate must receive a formal written response to his grievance within 15 days from the date on which the grievance is accepted.

Moore's grievance explained the history of his pancreas problem and provided an account of the follow-up treatment he had received. Prison officials determined that Moore's treatment was adequate and that his concerns had been appropriately resolved. In response, Moore filed suit in federal court under 42 U.S.C. § 1983. Moore sued the chief physician, the chief medical supervisor, and the director of the Division of Prisons, among others. The defendants moved to dismiss on grounds that they had not been

named or referenced in the grievance Moore had filed. The trial court granted the motion and Moore appealed.

On appeal, Moore contended that he was not required under the PLRA to name any specific individual in his administrative grievance. The United States Court of Appeals for the Fourth Circuit agreed, holding that prison grievances do not need to name or reference specific individuals in order to satisfy the PLRA's exhaustion requirements as against those defendants. To the contrary, the court observed that the PLRA requires only compliance with "prison grievance procedures". And, since nothing in the grievance procedures at issue required Moore to identify specific individuals in his grievance, the appellate court reversed the trial court's dismissal and sent the claim alleging a denial of medical care back for trial.

**NOTE:** In light of this case, it may be a sound practice to review your existing grievance procedures and consider amending them to require an inmate to identify, describe, or reference any individual whose conduct gives rise to the grievance. Although the PLRA does not expressly require identification of potential defendants, the Supreme Court has recognized that barring federal claims against defendants who have not been named in prior grievances might promote early notice to those who might later be sued. Therefore, having a procedure in place which requires inmates to identify potential defendants in their grievances could bolster defenses raised under the PLRA after suit is filed.

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