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Supreme Court Decision in *Jones v. Bock*: Exhaustion Requirements under the Prison Litigation Reform Act

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Summary

Congress passed the Prison Litigation Reform Act (PLRA) to help reduce the strain on the federal judicial system of extensive inmate litigation. The act mandated exhaustion of federal and state administrative remedies before an inmate could file a civil rights action. The Sixth Circuit along with some other lower courts adopted several procedural rules designed to implement this exhaustion requirement and facilitate early judicial screening. The Supreme Court granted certiorari to resolve the conflict in *Jones v. Bock*, and two other consolidated cases, namely: *Walton v. Bouchard*, and *Williams v. Overton*, which it unanimously decided that failure to exhaust prison grievance procedures is an affirmative defense, thereby rejecting the Court of Appeals' procedural rules as exceeding the proper limits of the judicial role. The issues in these cases were: (1) whether the PLRA prescribes "total exhaustion" that requires a federal court to dismiss a prisoner's federal civil rights complaint for failure to exhaust his administrative remedies whenever there is a single unexhausted claim, despite the presence of other exhausted claims; (2) whether the PLRA requires a prisoner to name a particular defendant in his or her administrative grievance in order to exhaust his or her administrative remedies as to that defendant and to preserve his or her right to sue them; and (3) whether satisfaction of the PLRA's exhaustion requirement is a prerequisite to a prisoner's federal civil rights suit such that the prisoner must allege and document in his complaint how he exhausted his administrative remedies, or instead, whether non-exhaustion is an affirmative defense that must be pled and proved by the defense. The Supreme Court decided these three issues on January 22, 2007 in favor of inmate litigants, rejecting various exhaustion screening mechanisms adopted by some of the circuits and thus making it less difficult for inmates/plaintiffs to pursue lawsuits involving complaints about their treatment in prison. It remains to be seen what impact this will have on the workload of the federal courts which already consists of tens of thousands of inmate civil rights cases a year.

Congress enacted the Prison Litigation Reform Act (PLRA) in 1996 in response to a significant increase in prisoner litigation in the federal courts;¹ the PLRA was designed to help unclog the court system from this litigation.² One of the ways Congress tried to do this was by setting up an “exhaustion” requirement. Before prisoners may challenge a condition of their confinement in federal court, the PLRA requires them to first exhaust available administrative remedies by pursuing to completion whatever inmate grievance and/or appeal procedures their prison custodians provide.³

Petitioners, each in the custody of the Michigan Department of Corrections (MDOC), pursued their grievances at each level of the MDOC’s grievance system and received final decisions denying their grievances.⁴ Jones, who had previously sustained back injuries, was assigned to perform physical labor over his objections. Alleging he had aggravated his back injury as a consequence, he filed a grievance against the officer who assigned him to the job and the officer who, despite his objections required him to perform the task. His subsequent suit under 42 U.S.C. §1983 also named the warden, a deputy warden, and prison medical personnel. Williams was denied surgical treatment of a painful, disfiguring condition and also denied a handicapped cell. His section 1983 complaint covering both denials and his earlier cell accommodation grievance identified prison and medical personnel by name; his earlier surgical grievance did not. Walton challenged the racial impartiality of disciplinary action taken against him and sued several named prison officials, although he had only named one in his unsuccessful grievances.

The Sixth Circuit Court of Appeals, held that the petitioners’ federal civil rights complaints must be dismissed in their entirety because they failed to satisfy certain extra-statutory rules that, according to the Court of Appeals, the PLRA’s exhaustion mandate requires.⁵ Specifically the Court of Appeals held that to satisfy the PLRA’s exhaustion requirement, prisoners must (1) either specifically allege in their complaints how and when they exhausted their administrative remedies or attach to their complaints proof of exhaustion, (2) have identified each individual in their initial administrative grievance whom they later name as a defendant in their subsequent civil rights complaints, and (3) not join in their complaints any unexhausted claims or defendants not named in their initial grievances with exhausted claims or defendants, lest their complaints be dismissed in their entirety.⁶

¹ P.L. 104-134, 110 Stat. 1321 (2006); 42 U.S.C. § 1997e (1994 ed. & Supp. II).

² *Woodford v. Ngo*, 126 S. Ct. 2378, 2382 (2006) (Congress enacted the PLRA in 1996 in response to a significant increase in prisoner litigation in the federal court. To accomplish this goal, Congress included a “variety of provisions” in the PLRA, a “centerpiece” of which “is an ‘invigorated’ exhaustion provision, § 1997e(a).”

³ “No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, 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).

⁴ For a more extensive discussion of the background described below, see CRS Report RS22539, *Prison Litigation Reform Act in the Supreme Court’s 2006 Term*, by Paul Starett Wallace, Jr.

⁵ *Jones v. Bock*, 135 Fed.Appx. 837 (6th Cir. 2005); *Williams v. Overton*, 136 Fed.Appx. 859 (6th Cir. 2005); *Walton v. Bouchard*, 136 Fed.Appx. 846 (6th Cir. 2005).

⁶ *Id.*

The lower courts had disagreed on various aspects of the PLRA exhaustion provision, and the Court was asked to decide these issues. It granted certiorari in the three cases on a consolidated basis in order to do so.⁷

First, there was the question of whether it's the prisoner's burden, in filing a lawsuit, to plead and show that they have exhausted the prison grievance procedures, or whether exhaustion is an affirmative defense that the accused prison officials can raise later. The Sixth Circuit, and some other lower courts, had held that the burden was on the prisoner to plead and demonstrate exhaustion.⁸ The requirement would allow the court, without considering the merits or requiring prison officials to respond, to refuse to accept a filing that on its face failed to demonstrate that it was ripe for adjudication.

Second, there was the issue of how much a prisoner must do to properly exhaust their claims in the prison grievance procedures. Specifically, the Sixth Circuit and some of the other courts had held that any party named as a defendant in the lawsuit must have been named in the prison grievance process from the very beginning; otherwise, the case must be thrown out.⁹ Other courts were more liberal on this issue.¹⁰

Third, there was the issue of what to do when a prisoner's petition includes some claims that have been exhausted and others have not. The Sixth Circuit had held that if even one claim were not exhausted, the whole case had to be dismissed.¹¹ Others were more liberal, allowing the case to move forward or allowing the complaint to be amended so that the unexhausted claims were removed.¹²

On January 22, 2007, in a unanimous opinion written by Chief Justice John Roberts, the Supreme Court reversed the Court of Appeals for the Sixth Circuit and delivered a

⁷ *Jones v. Bock* (05-7058), cert. granted, 126 S.Ct. 1462 (2006); *Walton v. Bouchard*, and *William v. Overton* (05-7142), cert. granted, 126 S.Ct. 1463 (2006).

⁸ *Bey v. Johnson*, 407 F.3d 801, 805 (6th Cir. 2005); *Fitzgerald v. Corrections Corp.*, 403 F.3d 1134 (10th Cir.) 2005); *contra*, *Handberry v. Thompson*, 446 F.3d 335, 342 (2d Cir. 2006); *Westefer v. Snyder*, 422 F.3d 570, 577 (7th Cir. 2005); *Brown v. Valoff*, 422 F.3d 926, 9356 (9th Cir. 2005); *Anderson v. XYZ Correctional Health Services, Inc.*, 407 F.3d 674, 678-81 (4th Cir. 2005); *Nerness v. Johnson*, 401 F.3d 874, 876 (8th Cir. 2005); *Brown v. Croak*, 312 F.3d 109, 112 (3d Cir. 2002).

⁹ *Burton v. Jones*, 321 F.3d 569, 575 (6th Cir. 2003); *accord*, *Abdul-Muhammad v. Kempker*, 450 F.3d 350-351-52 (8th Cir. 2006).

¹⁰ *Kikumura v. Osagie*, 461 F.3d 1269, 1282-284(10th Cir. 2006); *Johnson v. Testman*, 380 F.3d 691, 697 (2d Cir. 2004); *Strong v. David*, 297 F.3d 646, 650 (7th Cir. 2002).

¹¹ *Bey v. Johnson*, 407 F.3d 801, 809 (6th Cir. 2005); *accord*, *Graves v. Norris*, 218 F.3d 884, 885 (8th Cir. 2006); *Ross v. County of Bernalillo*, 365 F.3d 1181, 1190 (10th Cir. 2004).

¹² *Ortiz v. McBride*, 380 F.3d 649, 656 (2d Cir. 2004); *Spenser v. Bouchard*, 449 F.3d 721,726 (6th Cir. 2006)(holding that *Bey* had overlooked an earlier, binding precedent that permitted partial exhaustion); *Lira v. Herrera*, 427 F.3d 1164, 1175-176 (9th Cir. 2005); *Kikumura v. Osagie*, 461 F.3d 1269, 1289 (10th Cir. 2006). The Court had previously approved a similar approach relating to the exhaustion requirement in habeas cases, *see Rhines v. Weber*, 544 U.S. 269, 278 (2005).

decision which supported the three Michigan inmates,¹³ thus making it less difficult for them to pursue lawsuits involving complaints about their treatment in prison.

Affirmative Defense. The Court decided that the Sixth Circuit and its minority rule of placing the burden on the prisoner/plaintiff, was not correct. The Federal Rules of Civil Procedure 8(a) only requires a plaintiff to include, in their complaint, a “short and plain statement of the claim.”¹⁴ And since the PLRA is not generally the actual source of a prisoner’s claim, there is no reason a prisoner should have to include PLRA requirements in his/her complaint—or more simply, whether or not the prisoner met the exhaustion requirement is not part of their claim.¹⁵ What the Sixth Circuit did was tantamount to creating a heightened pleading standard, and the Court did not look favorably upon this practice.¹⁶ Additionally, in other instances, courts generally find that issues of “exhaustion” are affirmative defenses to be raised by the defendant, and therefore, why would it be different in these situations.¹⁷

The Sixth Circuit had also based its reasoning on another requirement of the PLRA, which states that courts must conduct early judicial screening of prisoner cases, to weed out the ones that should not be there.¹⁸ Therefore, the Sixth Circuit was of the opinion that making the plaintiff/prisoner plead exhaustion helped this process, because the court can quickly review the complaint and know whether there has been exhaustion and whether the case can remain or be dismissed.¹⁹ However, the Court ruled that the Sixth Circuit was in error here too, because there is no indication that Congress intended for the screening to be done by changing exhaustion from an affirmative defense.²⁰

Defendants Named. The Court noted that the PLRA simply demands that prisoners exhaust whatever administrative remedies are available.²¹ It says nothing which would require that all defendants be named from the beginning.²² The Court pointed out that this may not be possible in some instances, i.e., where for example, the identity of the responsible prison official is not discovered until well into the grievance process.²³ Also, in this case, the Michigan Department of Corrections’ policy did not have any provision requiring all defendants to be named in the grievance.²⁴ It just required that the prisoner to “be as specific as possible as well as “[b]rief and concise” and that is what

¹³ *Jones v. Bock*, 127 S.Ct. 910, 914 (2007).

¹⁴ *Id.* at 919.

¹⁵ *Id.*

¹⁶ *Id.* at 920.

¹⁷ *Id.* at 920-921.

¹⁸ *Id.* at 920.

¹⁹ *Id.*

²⁰ *Id.* at 921.

²¹ *Id.* at 922.

²² *Id.*

²³ *Id.* at 922.

²⁴ *Id.*

took place here.²⁵ More specifically, the grievance forms call for the identification of the official responsible to respond to the grievance, rather than that of any officials whose conduct provides the basis for the grievance. Thus, the petitioner/prisoner did not wrongfully use the state's grievance process by not naming someone as a defendant until later in the grievance process.²⁶

Total Exhaustion. The Court decided that the PLRA does not require dismissing the entire lawsuit when an inmate fails to exhaust some of the inmate's claims administratively. The PLRA provides that "no action shall be brought" until there has been exhaustion which the Sixth Circuit interpreted it to mean that the whole complaint had to be exhausted; otherwise if Congress intended courts to dismiss only unexhausted claims while retaining the balance of the lawsuit, the word "claim" rather than "action" would have been used in this section.²⁷ The Court said this reasoning is not practical since the statutory phrase "no action shall be brought" is nothing more than boilerplate language, which is used throughout the Federal Code and generally refers to claims rather than full complaints or entire actions.²⁸ The Court was neither persuaded by any of the other policy arguments which would support the Sixth Circuit's interpretation because the effect of a total exhaustion rule could cause inmates to file various claims in separate suits, to avoid the possibility of an unexhausted claim tainting the others; this certainly would not comport with the purpose of the PLRA to reduce the quantity of inmate suits.²⁹

The judgements of the United States Court of Appeals for the Sixth Circuit were reversed, and the three cases were remanded for further proceedings consistent with the Supreme Court's opinion.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 923-24.

²⁸ *Id.* at 924.

²⁹ *Id.* at 925-26.