

Sixth Circuit Allows Juvie Inmates to Sue Over Sexual Assaults

KEVIN KOENINGER December 18, 2019

CINCINNATI (CN) – The Sixth Circuit [ruled](#) unanimously Wednesday that a muddled grievance process prevented minor inmates in Michigan from filing claims of sexual assault by adult prisoners.

A three-member panel of the Cincinnati-based appeals court found a federal judge should not have dismissed the inmates' civil rights claims against state officials for a failure to exhaust their administrative remedies, because those remedies were so impractical that the process was essentially unavailable to them.



A class of anonymous inmates that were incarcerated as minors sued former Michigan Governor Rick Snyder and other state officials in 2017, claiming the state's since-abandoned policy of housing minors with adults violated their civil rights.

U.S. District Judge Robert Cleland dismissed the complaint in February 2018. He ruled the inmates' failure to exhaust their administrative remedies under the Prison Rape Elimination Act, or PREA, barred their claims.

The case was [argued](#) before the Sixth Circuit just over a year ago, and Wednesday's ruling reversed the lower court and allowed the three inmates who appealed to proceed

with their civil rights claims.

U.S. Circuit Judge Karen Moore, an appointee of Bill Clinton, wrote the panel's opinion, and said the grievance procedure outlined in PREA was not required to be exhausted because of the "opaque" nature of the process.

She cited the U.S. Supreme Court case *Ross v. Blake*, which delineated several examples of situations where exhaustion was inapplicable.

"Looking at this record, the state's administration of its PREA grievance process is a classic case of Orwellian doublethink that falls comfortably within the circumstances outlined in *Ross v. Blake*," Moore wrote. "Examples of such contradictory statements abound in this record, and inmates need not navigate this 'labyrinthine world of doublethink' to satisfy the exhaustion requirement."

Specifically, Moore cited the state's holding that a grievance can simultaneously be listed as both pending and closed, which she said "makes no sense."

She also pointed out that the state argued the inmates' claims failed because they did not submit their step-two grievance appeals, even though such an appeal is only filed if an initial claim is not investigated.

“In the defendants’ view,” Moore wrote, “in order to exhaust the inmates must appeal the initial response that stated an investigation was pending, but they need not appeal if their grievance is under investigation. This also makes no sense.”

The state also argued that the prisoners should have used the Department of Corrections’ general grievance procedure, and not the one outlined in PREA, but Moore flatly rejected the notion and mocked the overly complicated nature of the process.

“In the defendants’ view, the plaintiffs needed to exhaust the three-step general grievance process for complaints that do not involve sexual abuse because the plaintiffs did not truly complain about sexual abuse, but the defendants made the plaintiffs go through the PREA process because the plaintiffs’ grievances ‘alleged sexual abuse/harassment,’” she wrote. “Given all these inconsistent statements and positions, perhaps even the defendants themselves cannot understand and navigate their own administrative process.”

Statutory labyrinth aside, Moore also cited evidence in the record that the Department of Corrections frustrated the inmates’ attempts to exhaust their administrative remedies.

Two of the inmates were denied proper forms for their appeals and were forced to submit handwritten letters for step two of the process, and prison officials also failed to provide them with the findings of the investigations that allegedly found their claims lacked evidence.

U.S. Circuit Judges Julia Gibbons and Deborah Cook, both appointees of George W. Bush, also sat on the panel and joined in Moore’s opinion.

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