

United States Court of Appeals  
For the Eighth Circuit

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No. 12-1678

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Richard Bower

*Plaintiff - Appellant*

v.

Wendy Kelley

*Defendant*

Marie Austin, Mrs., CMS Administrator, Cummins Unit, ADC; Martin Zoldessy,  
Dr., Dentist, Cummins Unit, ADC

*Defendants - Appellees*

John Doe, Dr., Dentist, Cummins Unit

*Defendant*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Pine Bluff

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Submitted: December 13, 2012

Filed: December 13, 2012

[Unpublished]

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Before WOLLMAN, BYE, and GRUENDER, Circuit Judges.

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PER CURIAM.

Arkansas Department of Correction (ADC) inmate Richard Bower sought damages in a 42 U.S.C. § 1983 action against Correctional Medical Services (CMS) Administrator Marie Austin and CMS head dentist Dr. Martin Zoldessy.<sup>1</sup> He alleged that they refused to have his dental implants removed and cleaned for over two years, which caused him to suffer infections. Austin and Zoldessy moved for summary judgment on the ground that Bower did not exhaust his administrative remedies as to them because he did not name them in his grievance as required by ADC policy. The district court granted their motion and dismissed the claims against them without prejudice.

Appellees do not dispute that Bower exhausted his grievance regarding inadequate dental care; they argue that his failure to name them specifically in the grievance precluded exhaustion of his claims against them. This court has rejected such an argument. *See Hammett v. Cofield*, 681 F.3d 945, 947 (8th Cir. 2012) (per curiam) (concluding that exhaustion requirement is satisfied if prison officials decide procedurally flawed grievance on merits; agreeing with, inter alia, *Reed-Bey v. Pramstaller*, 603 F.3d 322, 324-26 (6th Cir. 2010)). We also reject appellees' other arguments.

Accordingly, we reverse the grant of summary judgment to Austin and Zoldessy, remand for further proceedings on the claims against them, and otherwise affirm the judgment.

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<sup>1</sup>Bower also sued Wendy Kelley and an unidentified dentist. Kelley was dismissed below and on appeal. The claims against the unidentified dentist were dismissed below without prejudice; Bower does not appeal that ruling. *See Griffith v. City of Des Moines*, 387 F.3d 733, 739 (8th Cir. 2004) (claims not briefed on appeal are deemed abandoned).