

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-13243

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT March 17, 2008 THOMAS K. KAHN CLERK</p>

D. C. Docket No. 05-00171-CV-1-DHB

LARRY JOHN STEPHENS,

Plaintiff-Appellant,

versus

WARDEN TONY HOWERTON,
DEPUTY WARDEN DENNIS BROWN,
OFFICER JONES,
OFFICER BRYANT,
OFFICER KING, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Georgia

(March 17, 2008)

Before HULL and WILSON, Circuit Judges, and ALBRITTON*, District Judge.

PER CURIAM:

After review and oral argument, we affirm the district court's dismissal of plaintiff's complaint without prejudice because after June 1, 2005 (when the plaintiff was returned to the general prison population), and prior to filing his complaint on October 5, 2005, the plaintiff failed to file an out-of-time grievance as provided for in the written grievance policy. We need not reach any issues regarding the availability of grievances during the time period prior to June 1, 2005 and expressly make no ruling as to whether the district court erred in adopting the procedure followed by the Ninth Circuit in Wyatt v. Terhune, 315 F.3d 1108 (9th Cir. 2003).

AFFIRMED.

*Honorable W. Harold Albritton, III, United States District Judge for the Middle District of Alabama, sitting by designation.