

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 13, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 99-3300

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN EX REL. JIMMY D. BRIDGES,

PETITIONER-APPELLANT,

V.

JEFFREY ENDICOTT,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Columbia County:
ANDREW P. BISSONNETTE, Judge. *Affirmed.*

Before Dykman, P.J., Eich and Deininger, JJ.

¶1 PER CURIAM. Jimmy D. Bridges appeals from an order dismissing his certiorari petition seeking review of a prison discipline decision. We conclude that the petition was properly dismissed because Bridges did not show that he had exhausted his administrative remedies. We affirm.

¶2 Bridges was an inmate at Columbia Correctional Institution. Respondent Jeffrey Endicott is the superintendent of that facility. Bridges filed a certiorari petition seeking review of the proceedings related to conduct report no. 942839. The petition alleges various procedural and non-procedural errors in the proceedings. When an inmate seeks certiorari review of both types of errors, he must first exhaust his administrative remedies for the procedural issues by using the Inmate Complaint Review System (ICRS). *See State ex rel. Smith v. McCaughtry*, 222 Wis. 2d 68, 79, 586 N.W.2d 63 (Ct. App. 1998). The certiorari petition is supposed to include documentation showing that the prisoner has exhausted his administrative remedies. *See* WIS. STAT. § 801.02(7)(c) (1997-98).¹ Failure to sufficiently plead exhaustion of remedies is grounds for dismissal. *See Smith* at 72.

¶3 Bridges' certiorari petition was silent about administrative remedies, other than a statement on the preprinted form saying that no "nonjudicial remedy" was available. Bridges did not include any documentation about his administrative remedies. However, he did address the question in later submissions to the circuit court. We will consider those papers, although the failure to address the exhaustion issue in the petition itself might well be sufficient grounds for dismissal.

¶4 Bridges refers to two ICRS complaints, nos. 1998-24446 and 1999-26660. We will not attempt to describe the details of Bridges' statements about each proceeding here. However, it does not appear that the first complaint raised any issues about the discipline proceedings on the conduct report, although it did

¹ All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

make complaints about prison staff's actions during the incident that gave rise to the conduct report. As to the second complaint, Bridges has described the early stages of that complaint's movement through the ICRS process, but he does not give any indication that the administrative proceedings were exhausted by pursuing them through the full ICRS process to a decision by the secretary. Accordingly, we conclude that Bridges has not sufficiently pled exhaustion of administrative remedies.

¶5 Endicott also argues that Bridges' certiorari petition was not filed within the required forty-five-day time period after release of the decision to be reviewed. *See* WIS. STAT. § 893.735. However, because Bridges has not shown that he exhausted his administrative remedies, there is no basis upon which we can conclude there was a final agency decision that was subject to certiorari review.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

