RENDERED: NOVEMBER 6, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0040-MR

CHARLES MOSS — APPELLANT

v.

APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE JERRY CROSBY, II, JUDGE
ACTION NO. 23-CI-00495

AMY ROBEY, WARDEN — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: COMBS, A. JONES, AND MOYNAHAN, JUDGES.

COMBS, JUDGE: This case involves a lawsuit filed by a prison inmate involving an injury inflicted by a fellow prisoner. Appellant, Charles R. Moss (Moss), *pro se*, appeals from an Order of Oldham Circuit Court dismissing his complaint for lack of jurisdiction due to his failure to exhaust administrative remedies. After our review, we affirm.

Moss, an inmate at Luther Luckett Correctional Complex, filed a Complaint against Warden Robey, Commissioner Crews, Deputy Commissioner White, Unit Administrator Crawford, Caseworkers Bush and Coffee, and others. Moss alleged he was attacked by an inmate and sustained multiple injuries requiring hospital treatment. He also claimed that "this happened after [Moss] . . . tried to get moved away from this guy . . . . [T]he staff knew this could happen, but did nothing to protect him . . . ." Moss moved the court "to process this forgoing motion ... authorized by 42 U.S.C.[1] section 1983 . . . ."

Defendants moved to dismiss pursuant to CR[2] 12.02(f). They argued that Moss failed to state an Eighth Amendment failure-to-protect claim; *i.e.,* that a plaintiff must show that:

> (1) "objectively," he was "incarcerated under conditions posing a substantial risk of serious harm," . . . and (2) the official acted with "deliberate indifference" to inmate safety, meaning the official was "subjectively aware of the risk" and "fail[ed] to take reasonable measures to abate it."

Reedy v. West, 988 F.3d 907, 912 (6th Cir. 2021) (quoting *Farmer v. Brennan*, 511 U.S. 825, 829, 834, 837 (1994)).

[1] United States Code.

[2] Kentucky Rule of Civil Procedure.

Thereafter, Moss filed a motion to amend his complaint and to dismiss Defendants' motion. He alleged that on the day of the attack, he had gone to the caseworker's office to request that he be moved after being threatened by another inmate. After the caseworker denied his request, Moss wrote to Warden Robey, and she, too, denied the request. Moss contended that the caseworker and Warden Robey were subjectively aware of the risk and that they acted with deliberate indifference to his safety by failing to take reasonable measures to abate the risk. Moss also contended that Defendants Crews, White, and Robey knew of "objective" overcrowding issues and through their "deliberate indifference" failed to protect him from harm.

By Order entered on November 3, 2025, the court granted Defendants' Motion to Dismiss as follows:

> Before this Court is a Complaint filed by Plaintiff that alleges a conditions of confinement issue. . . . 1) that Defendants failed to protect him as required; and 2) due to the prison overcrowding, DOC[3] failed to protect Plaintiff from harm at the hands of other inmates. . . .
>
> . . .
>
> KRS[4] 454.415(2) requires prisoners to exhaust their administrative remedies . . . . If these requirements are not met, the circuit court must dismiss the action KRS 454.415(4) . . . .

[3] Department of Corrections.

[4] Kentucky Revised Statutes.

> . . .
> Plaintiff's Motion to Amend does not cure the deficiency of failing to demonstrate he exhausted his administrative remedies. Therefore, the Court DENIES Plaintiff's Motion to Amend his Complaint.
>
> As Plaintiff failed to exhaust his administrative remedies, this Court has no jurisdiction. Therefore, the Court GRANTS Defendants' Motion to Dismiss.

Moss has now appealed. KRS 454.415 governs the procedure that must be followed by aggrieved inmates -- specifically with respect to the mandate of exhaustion of administrative remedies. It provides as follows:

> (1) **No action shall be brought** by or on behalf of an inmate, with respect to:
>
> . . .
>
> (d) A conditions-of-confinement issue;
>
> **until administrative remedies** as set forth in the policies and procedures of the Department of Corrections, county jail, or other local or regional correctional facility **are exhausted**.
>
> (2) Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.
>
> (3) The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.
>
> (4) A court **shall dismiss** a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section **if the inmate has not exhausted administrative remedies** . . . .

(Emphases added.)

Moss failed to comply with KRS 454.415. We fully agree with the Commonwealth that the Oldham Circuit Court properly dismissed his complaint.

Therefore, we affirm that dismissal.

ALL CONCUR.

BRIEF FOR APPELLANT:	BRIEF FOR APPELLEE:
Charles Moss, *pro se* LaGrange, Kentucky	Kristen Wehking Frankfort, Kentucky