

Jenner & Block Secures Precedential Third Circuit Ruling for Pro Bono Client in Prison Retaliation Case

News

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A Jenner & Block team secured a precedential ruling from the US Court of Appeals for the Third Circuit on behalf of pro bono client Brandon Timmons, an incarcerated person in a Pennsylvania state prison who alleged that a prison official retaliated against him for filing complaints against staff.

Mr. Timmons alleged that a deputy prison superintendent called him a "rat" and a "snitch" in front of other prisoners in retaliation for lawsuits he had previously filed against correctional employees, placing him at risk of violence from other prisoners. The district court granted summary judgment for the defendant, finding that Mr. Timmons had failed to exhaust his administrative remedies under the Prison Litigation Reform Act (PLRA). In reaching the decision, the court rejected Mr. Timmons's sworn declaration—which explained that staff intimidation had made the grievance process unavailable to him—calling it "self-serving," "unsupported," and "conclusory."

On appeal, the Jenner team argued that the district court had incorrectly applied the summary-judgment standard in dismissing the case. In a precedential opinion authored by Judge Emil Bove, the Third Circuit agreed, holding that Mr. Timmons's declaration detailing facts about threats from corrections officers was more than enough to raise real doubt about whether the grievance process had been available to him. The court vacated the summary judgment ruling and remanded the case, instructing the district court to also determine whether Mr. Timmons is entitled to a jury trial on the exhaustion issue under the Supreme Court's recent decision in *Perttu v. Richards*.

Associate Sophie Montgomery argued the appeal and led the Jenner team, in collaboration with Washington, DC Office Managing Partner Lindsay Harrison and co-counsel Devi M. Rao of the MacArthur Justice Center.

Related Attorneys



Sophie Montgomery

Associate

smontgomery@jenner.com

+1 202 639 3866



Lindsay Harrison

Managing Partner, Washington, DC

lharrison@jenner.com

+1 202 639 6865

Related Locations

Washington, DC

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