

05-7058 JONES V. BOCK

DECISION BELOW:135 Fed Appx 837

LOWER COURT CASE NUMBER: 03-2576

QUESTIONS PRESENTED:

42 U.S.C. § 1997e (a) of the Prison Litigation Reform Act of 1995 (PLRA), Pub. L. 104-134, 110 Stat. 1321 (1996), provides that "[n]o action shall be brought with respect to prison conditions" under 42 U.S.C. § 1983 or other federal law "until such administrative remedies as are available are exhausted." "[E]xhaustion in cases covered by § 1997 e (a) is * * * mandatory." Porter v. Nussle, 534 U.S. 516, 524 (2002). The questions presented, over both of which the circuits are intractably split, are:

1. Whether satisfaction of the PLRA' s exhaustion requirement is a prerequisite to a prisoner's federal civil rights suit such that the prisoner must allege in his complaint how he exhausted his administrative remedies (or attach proof of exhaustion to the complaint), or instead, whether non-exhaustion is an affirmative defense that must be pleaded and proven by the defense.
2. Whether the PLRA prescribes a "total exhaustion" rule that requires a federal district court to dismiss a prisoner's federal civil rights complaint for failure to exhaust administrative remedies whenever there is a single unexhausted claim, despite the presence of other exhausted claims.

Cert. Granted 3/6/2006

CONSOLIDATED WITH 05-7142 FOR ONE HOUR ORAL ARGUMENT.