

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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STANLEY L. BOSWELL,  
  
Plaintiff–Appellant

UNPUBLISHED  
May 31, 1996

v

No. 180415  
LC No. 93-74117-CZ

DEPARTMENT OF CORRECTIONS,  
  
Defendant–Appellee.

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Before: Corrigan, P.J., and MacKenzie and P.J. Clulo,\* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court order dismissing plaintiff’s appeal for failure to exhaust his administrative remedies. We affirm.

Plaintiff, a prisoner incarcerated at the Ionia Maximum Correctional Facility, filed a complaint seeking a declaratory judgment and money damages, alleging violations of his First and Fourteenth Amendment rights and violation of “state law” after defendant rejected a piece of his first class mail. The trial court dismissed these claims because plaintiff failed to provide any evidence that he had requested a declaratory ruling from defendant and therefore had not met a condition precedent to raising the issue in circuit court. The court also dismissed plaintiff’s due process violation claim because plaintiff failed to establish that there was no adequate post-deprivation remedy through state law. The trial court properly dismissed plaintiff’s claims on these bases.

Where an administrative grievance procedure is provided, exhaustion of that remedy is required before circuit court review. MCL 24.310; MSA 560(201); *Local 512 v Civil Service Dep’t*, 209 Mich App 573, 576-577; 531 NW2d 790 (1995). Further, MCL 791.255(1); MSA 28.2320 requires a request for rehearing to exhaust remedies with the MDOC. Nothing in the record provided to this Court indicates that plaintiff met either of these prerequisites to review. Plaintiff also failed to request declaratory relief and have his request denied or ignored and thus, had not met the prerequisite for seeking a declaratory judgment. MCL 24.263; MSA 3.350(163); MCL 24.301; MSA 560(201).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

The dismissal of plaintiff's due process claim was also proper because plaintiff failed to plead or prove an inadequacy of a state post-deprivation remedy. A plaintiff has the burden of pleading and proving inadequacy of state remedies in suits for deprivation of property without due process. *Blue Cross and Blue Shield of Michigan v Comm'r of Ins*, 155 Mich App 723, 732; 400 NW2d 638 (1986). Plaintiff had alternative state remedies through both the rehearing and grievance procedures, with the possibility of appeal to the circuit court and therefore, plaintiff failed to meet his burden.

Affirmed.

/s/ Maura D. Corrigan  
/s/ Barbara B. MacKenzie  
/s/ Paul J. Clulo