

75-44 BURRELL v. McCRAY

Cont to CA 4 (Md)

Argued 4/27/76

Q - Whether a prisoner must exhaust
adm. remedies before instituting a 1983 suit.

Burch (AG of Md.)

Three cases consolidated.

Only McWay case was decided on merits. (He has filed 55 actions! ~~¶~~ None of other petitions resulted in any relief. The AG said these 55 suits have costted some \$350,000). Commission

The Correctional Service Bd (Board) could have granted the relief requested as declaratory & injunctive relief. (Council for McWay says only damages were requested.)
For 90 yrs - ~~not~~ from enactment of 1983 until repeal - there was requirement of exhaustion.

Argues that since state remedies must be exhausted before Fed. H/C, logic requires exhaustion before bringing less fundamental claims into Fed Ct under 1983.

Ned. Commission is independent body that conducts D/P hearings.

Burch (cont.)

Jud. review is available ~~from~~
~~the~~ decisions of Comm. —
which go first to Secretaries of
the Corrections Bd (?)

(McCray was confined in solitary
w/out clothes. It was feared that
he would use clothes to hang himself)

ct/appeals

Morgan (for Rake)

Adm. remedy is not adequate

Under statute Commission
has no enforcement authority.
It ~~is~~ makes recommendations
to Secretary who has power to
~~is~~ take action as recommended.