

Q - whether a prisoner must exhaust
admin. remedies before instituting a 1983 suit.

Only McCray case was decided
on merits. (He was paid \$5000
settlement of those of other prisoners
settled in any way. The
court found to not have
paid some \$300,000)

The Commission Report (which
could have provided the relief
sought) in declaratory or
injunctive relief (payment of money)

For 40 years - with some amendment
of 1983 - with some amendment
requirement of exhaustion

Arguing that administrative remedies
must be exhausted before 1983,
logic requires exhaustion
being a less preferable
into suit at 1983

That Commission is independent
body that conducts 1983 suits

Burch (AG of Md.)

Three cases - consolidated.

Only McCray case was decided on merits. (He has filed 55 actions! ~~5~~ None of other petitions resulted in any relief. The AG said these 55 suits have cost him some \$350,000). Commission

The Correctional Review ~~Board~~ (Board) could have granted the relief requested as declaratory & injunction relief. (Counsel for McCray says only damages were requested.)
For 90 yrs - ~~out~~ from enactment of 1983 until reversal - 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 solitaries
w/out clothes. It was feared that
he would use clothes to hang himself)

ct/appeals

Morgan (for Raker)

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.

not really relevant
procedural
Can't distinguish
application for habeas corpus
from 1952 case
case from other
1952 case
Trapped by procedural
that doesn't matter