

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-3293

MICHAEL JEFFREY BLAUSER,
Appellant

v.

CALEB QUIMBY

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 2:23-cv-02028)
Magistrate Judge: Honorable Patricia L. Dodge (by consent)

Submitted Pursuant to Third Circuit LAR 34.1(a)
August 21, 2026
Before: KRAUSE, RESTREPO, and PORTER, *Circuit Judges*

(Opinion filed August 26, 2026)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Michael Jeffrey Blauser, a Pennsylvania prisoner, appeals pro se from an order of the District Court granting the defendant's motion for summary judgment based on his failure to exhaust administrative remedies. For the following reasons, we will affirm.

Blauser filed a complaint pursuant to 42 U.S.C. § 1983 in the United States District Court for the Western District of Pennsylvania, alleging that correctional officer Caleb Quimby assaulted him at the Mercer County Jail on December 26, 2022. Quimby filed a motion for summary judgment, arguing, in part, that Blauser failed to exhaust available administrative remedies under the Prison Litigation Reform Act ("PLRA"). Blauser filed a response, but it did not address the exhaustion issue. The District Court, acting through a Magistrate Judge on the parties' consent under 28 U.S.C. § 636(c), granted Quimby's motion for summary judgment, concluding that "there are no genuine issues of material fact that would otherwise support a conclusion that the grievance process was unavailable to [Blauser] or that he did not understand the process." (ECF 56, at 6.) In reaching that conclusion, the District Court observed that Blauser "did not allege in his Complaint or in his response to Quimby's motion for summary judgment that the grievance process was unavailable to him or that he did not understand the procedures." (ECF 56, at 3.) Blauser appealed.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291, and we review de novo the District Court's grant of summary judgment. *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 265 (3d Cir. 2014).

The PLRA provides that incarcerated plaintiffs cannot bring civil rights suits under § 1983 "until such administrative remedies as are available are exhausted." 42

U.S.C. § 1997e(a). “[I]t is the prison’s requirements, and not the PLRA, that define the boundaries of proper exhaustion.” *Jones v. Bock*, 549 U.S. 199, 218 (2007). Failure to exhaust is an affirmative defense, and the burden to plead and prove an incarcerated plaintiff’s failure to exhaust rests on the defendant. *See Rinaldi v. United States*, 904 F.3d 257, 268 (3d Cir. 2018). If the defendant demonstrates that the plaintiff failed to exhaust his administrative remedies, then the plaintiff must show that such remedies were unavailable to him. *See id.* Whether a remedy is available to exhaust is “highly fact-intensive.” *See Drippe v. Tobelinski*, 604 F.3d 778, 785 (3d Cir. 2010).

Blauser conceded that he did not file a grievance related to the December 2022 incident. In letters submitted to the District Court, however, he suggested that he is illiterate, a condition which arguably can render the grievance process unavailable. *See Smallwood v. Williams*, 59 F.4th 306, 314 (7th Cir. 2023) (stating that “we have made clear that a remedy that is available to the majority of inmates may not be available to those who are illiterate, blind, or whose individual circumstances otherwise render the procedures unavailable to them”). But Quimby accurately argues that Blauser failed to raise the issue of his illiteracy in his opening brief. Indeed, Blauser’s brief addresses the exhaustion requirement in a single paragraph, stating only that the “lower court incorrectly dismissed [his] complaint because he did not make a good faith effort to exhaust administrative remedies,” noting that the “exhaustion requirement may be excused under circumstances where state remedies are rendered ineffective by inordinate delay or inaction occurring,” and suggesting that his transfer from county jail to state

custody “operate[d] as a dead end in processing.”¹ Appellant’s Br., at 6 (quotations modified). Because Blauser’s brief does not specifically assert that exhaustion should be excused because he is illiterate, he has forfeited the only argument that might have demonstrated that administrative remedies were unavailing to him.² See *In re Wettach*, 811 F.3d 99, 115 (3d Cir. 2016) (noting that arguments not developed in an appellant’s opening brief are forfeited).

For these reasons, we will affirm the District Court’s judgment.

¹ This is the first time that Blauser suggested that a prison transfer made administrative remedies unavailable to him. Thus, we will not consider that allegation. See *Jenkins v. Superintendent of Laurel Highlands*, 705 F.3d 80, 88 n.12 (3d Cir. 2013).

² We note that in response to Quimby’s argument in his summary judgment motion that Blauser failed to exhaust administrative remedies, Blauser did not raise the issue of his illiteracy. Instead, he argued only the merits of his claims. Thus, even if the illiteracy issue were not forfeited based on Blauser’s failure to raise the issue in his opening brief on appeal, it would appear that the issue was forfeited at the summary judgment stage. See *Bennett v. Hurley Med. Ctr.*, 86 F.4th 314, 324 (6th Cir. 2023) (holding that parties forfeit arguments at the summary judgment stage by failing to adequately address them in response to a motion for summary judgment).