

Reversed and Remanded and Opinion filed November 15, 2001.



In The
Fourteenth Court of Appeals

NO. 14-00-00985-CV

STEVEN P. COOPER, Appellant

V.

**TDCJ-ID, BUREAU OF CLASSIFICATION, ALBERT BRADY, DELPHIS
BENOIT, HUGHES UNIT INTERNAL AFFAIRS, HUGHES UNIT AD. SEG.
OFFICIALS, HUGHES UNIT AD. SEG. MEDICAL STAFF, DAVID MOYA,
JAMES COALSTON, RICHARD HARVEY and STEPHEN BURKETT, Appellees**

**On Appeal from the 12th/278th District Court
Walker County, Texas
Trial Court Cause No. 20,669-C**

O P I N I O N

Appellant Steven Cooper, an inmate, appeals from the trial court's dismissal of his lawsuit brought under Chapter 14 of the Texas Civil Practice and Remedies Code. Under two points of error, appellant complains of the trial court's dismissal of his petition and of the regional administrative judge's refusal to disqualify the trial judge assigned to preside at the evidentiary hearing. No brief has been filed by the appellees.

In his Chapter 14 petition filed with the trial court in December 1999, appellant

alleged that he had not received “answers” to his grievance proceedings filed in July and August 1999. Under TEX. GOV’T CODE ANN. § 501.008(d)(2), an inmate may file a Chapter 14 claim the 180th day after the date the grievance is filed if the inmate has not received a written decision on his underlying claims. Inasmuch as the 180 days had not yet expired at the time the petition was filed, the trial court abated the Chapter 14 claim on December 17, 1999, for 180 days to allow appellant time to complete his grievance procedures¹.

Following the 180-day stay of proceedings, the trial court entered an order dismissing appellant’s Chapter 14 claims, stating that appellant followed grievance procedures but that there was a “a violation of 14.005(b) late filing (31-day rule).” Under section 14.005(b), an inmate has 31 days to file his Chapter 14 proceedings following his receipt of a written administrative decision denying his grievance. *See Wallace v. Texas Dept. of Criminal Justice – Institutional Division*, 36 S.W.3d 607 (Tex. App.—Houston [1st Dist.] 2000, review denied). However, the record here does not reflect a written decision on any of appellant’s underlying grievance system claims that would have triggered the 31-day rule; to the contrary, appellant’s petition alleges the grievances were still pending at the time the Chapter 14 proceeding was filed. The trial court’s December 17, 1999 order establishes that appellant filed this suit *before* grievance procedures were completed. Thus, it is impossible for appellant to have filed it more than 31-days *after* they were completed. Under such circumstances, it was an abuse of the trial court’s discretion to dismiss appellant’s petition for violation of the 31-day rule, and we sustain appellant’s first point of error.

Appellant’s second point of error complains of the administrative judge’s refusal to grant appellant’s motion to disqualify the trial judge. We find no such motion or order in the record, and nothing is presented for our review. Appellant’s second point of error is overruled.

¹ Our file reflects a certification from the Walker County District Clerk stating that no videotape was made of the December 17, 1999 evidentiary hearing due to faulty equipment.

We reverse the trial court's dismissal of appellant's Chapter 14 petition, and remand this cause to the trial court for further proceedings.

/s/ Scott Brister
Chief Justice

Judgment rendered and Opinion filed November 15, 2001.

Panel consists of Chief Justice Brister and Justices Fowler and Seymore.

Do Not Publish — TEX. R. APP. P. 47.3(b).