

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted September 20, 2007*
Decided September 21, 2007

Before

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

Hon. ANN CLAIRE WILLIAMS, *Circuit Judge*

No. 06-4261

JAMES HOSKINS,
Plaintiff-Appellant,

v.

TCF NATIONAL BANK,
Defendant-Appellee.

Appeal from the United States
District Court for the Eastern
District of Wisconsin

No. 06 C 868

Charles N. Clevert, Jr.,
Judge.

ORDER

Wisconsin inmate James Hoskins sued TCF National Bank under 42 U.S.C. § 1983 claiming that it paid out about \$3,000 on approximately 40 fraudulent checks that were drawn on his account. The district court screened Hoskins's amended complaint and dismissed it for failure to state a claim. *See* 28 U.S.C. § 1915A(a), (b)(1).

*The appellee was not served with process in the district court and is not participating in this appeal. After an examination of the appellant's brief and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the appellant's brief and the record. *See* Fed. R. App. P. 34(a)(2).

On appeal Hoskins continues to press his contention that the bank violated his constitutional rights. But, as the district court observed, Hoskins cannot proceed with his federal claim under § 1983 because his allegations against the bank describe purely private business activities. The bank is not a state actor. *See Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50 (1999); *Gayman v. Principal Fin. Servs., Inc.*, 311 F.3d 851, 852-53 (7th Cir. 2003); *Mitchell v. Kirk*, 20 F.3d 936, 938 (8th Cir. 1994). Accordingly, the court properly dismissed Hoskins's complaint.

The district court told Hoskins that he incurred one "strike" under 28 U.S.C. § 1915(g) for filing a complaint that fails to state a claim, and we note that he now has incurred a second "strike" for filing a frivolous appeal.

AFFIRMED.