

**NONPRECEDENTIAL DISPOSITION**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 11, 2023\*

Decided September 12, 2023

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-1921

DELOREAN L. BRYSON,  
*Plaintiff-Appellant,*

*v.*

SCOTT ECKSTEIN, et al.,  
*Defendants-Appellees.*

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

No. 21-cv-1094-bhl

Brett H. Ludwig,  
*Judge.*

**ORDER**

DeLorean Bryson, a Wisconsin prisoner, filed a federal complaint alleging that officials violated or allowed violations of his due process rights under the Fourteenth Amendment during a disciplinary proceeding. The district court screened his third

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\* Appellees were not served with process and are not participating in this appeal. After examining the appellant's brief and the record, we have concluded that the case is appropriate for summary disposition. *See* FED. R. APP. P. 34(a)(2).

amended complaint and dismissed it for failing to state a claim because the discipline he received—loss of telephone privileges—does not implicate a protected liberty interest. For the same reason, we affirm.

Bryson received a conduct report for failing to sign out of his housing unit with the cell hall officer. According to Bryson, a correctional officer “waived him off” when he went to sign out. To support his defense, Bryson asked for video footage of the hallway outside his cell to corroborate his account, but the prison’s security director denied his request. After a hearing, Bryson was found guilty and disciplined with the loss of telephone privileges. Bryson appealed the decision within the prison and then pursued review in state court, ultimately securing a rehearing. Again, his request for the video was denied, he was found guilty, and his phone access was revoked.

Bryson sued officials at his prison and the Wisconsin Department of Corrections under 42 U.S.C. § 1983, alleging that they deprived him of due process by denying, or ratifying the denial of, evidence for his defense. After multiple revisions, he alleged in a third amended complaint that a state judge terminated his parental rights because he had failed to maintain phone contact with his children as that judge had required.

The district court screened the operative complaint, 28 U.S.C. § 1915A, and dismissed it for failure to state a claim. The court ruled that Bryson did not allege a denial of any constitutionally protected interest. He did not have a liberty interest in his telephone privileges, the court concluded, and his loss of parental rights was too attenuated from any defendant’s actions to provide grounds for a due process claim.

On appeal, Bryson argues that “assuming” he had a protectable liberty interest, failing to produce the video evidence for his hearing deprived him of due process. But we must decide, not assume, whether a protected liberty interest was at stake. *Lekas v. Briley*, 405 F.3d 602, 607 (7th Cir. 2005). One exists only when depriving a prisoner of that interest would cause an “atypical and significant hardship ... in relation to the ordinary incidents of prison life.” *Wilkinson v. Austin*, 545 U.S. 209, 221–23 (2005) (quoting *Sandin v. Conner*, 515 U.S. 472, 484 (1995)). The loss of telephone privileges is not such a hardship. *See, e.g., Lekas*, 405 F.3d at 610, 613 (prisoner who lost many privileges, including use of telephone, did not have protected liberty interest); *see also Wagner v. Hanks*, 128 F.3d 1173, 1175 (7th Cir. 1997) (making phone calls is “so limited an increment of privileges [that it] would be unlikely to effect a *significant* deprivation of liberty”). Because Bryson’s complaint did not describe any protected liberty interest, he did not state a due process claim.

Bryson does not address the district court's other conclusion. In any event, we agree with the court that Bryson's alleged loss of parental rights resulting from a state judge's decision is too attenuated from the prison disciplinary proceeding to supply a constitutionally protected liberty interest for his claim against the defendants here. *Cf. Sandin*, 515 U.S. at 487. Notably, Bryson does not claim that before he was punished, anyone involved in imposing the sanction knew that a court order required him to have phone calls with his children. *See Wilson v. Warren County*, 830 F.3d 464, 469 (7th Cir. 2016) (defendants not liable under § 1983 without knowledge of alleged violation). And, to the extent that Bryson suggests unfairness in the parental-rights decision, we do not review the decisions of state judges about child custody. *See generally Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992).

AFFIRMED