

NONPRECEDENTIAL DISPOSITION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 April 15, 2024*

Decided April 17, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 22-2722

JAMES LEE MOSLEY,
Plaintiff-Appellant,

v.

INDIANA DEPARTMENT OF
CORRECTION, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Southern District of
Indiana, New Albany Division.

No. 4:21-cv-00167-SEB-DML

Sarah Evans Barker,
Judge.

ORDER

James Mosley appeals the dismissal of his suit alleging that the defendants unconstitutionally prosecuted and incarcerated him for a probation violation for which he was later exonerated. *See* 42 U.S.C. § 1983. The district court screened James's suit and properly dismissed it for failure to state a claim; we thus affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

The events in this suit arose six months after Mosley began a prison term for fraud, to be followed by probation. While serving his prison term, he wrote to one of his victims. The letter purported to be an apology, but because the terms of his probation prohibited him from contacting his victims, a prosecutor petitioned the Ripley Circuit Court to revoke Mosley's probation. After a hearing, a state judge extended Mosley's prison term to include three of his original six years of probation. On appeal, the Indiana Court of Appeals reversed, concluding that Mosley did not violate the terms of his probation because the victim to whom Mosley wrote was dead. While Mosley was in prison, he received a COVID-19 vaccination, which Mosley says blinded his right eye.

Mosley then turned to federal court. He sued the state judge, the prosecutor, Ripley County Courts, Indiana Department of Correction, and The GEO Group, Inc., which provides correctional services. Mosely accused them of wrongfully incarcerating him and causing his right-eye blindness for which he sought damages. The district court screened Mosley's complaint, *see* 28 U.S.C. § 1915A, and dismissed it. The court ruled that the judge and prosecutor were absolutely immune from damages, Ripley County Courts is not a suable entity, and Indiana Department of Correction as a branch of the state is not amenable to suit. It also dismissed Mosley's claims against The GEO Group because he did not allege that any harm resulted from it. The court allowed Mosley to file an amended complaint to cure its deficiencies.

Instead of curing the deficiencies in his original complaint, Mosley named a different set of defendants, including Lieutenant Sheriff Randy Holt, whom Mosley calls the "probable cause officer." The only factual allegation that Mosley makes about Holt (we may ignore his legal conclusions, *see Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)), was that he signed an affidavit stating that "Mosley had sent a letter to" a victim, even though Holt was "aware" that the victim was "deceased" for over two years. In an effort to see if the records in Mosley's state prosecution might add context to his allegations, the district court consulted them. Ultimately it ruled that Mosley's complaint stated no claim against Holt and the new defendants. The court also denied Mosley's motion for recruited counsel to assist with preparing his complaint. It reasoned that, with his education (high-school equivalency) and his coherent pleadings, he was competent to prepare his own complaint, even with his difficulty seeing.

On appeal, Mosley challenges the dismissal of his suit, which we review *de novo*. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015). He first contends that the district court wrongly refused to revive his claims against the judge and prosecutor, but we disagree.

In dismissing the original complaint, the court gave Mosley a chance to address its deficiencies, but instead of doing so, Mosley dropped the judge and prosecutor as defendants and sued a new set of defendants. Generally, “an amended complaint supersedes an original complaint and renders the original complaint void.” *Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d 632, 638 n.1 (7th Cir. 2004). Mosley’s amended complaint omitted the claims against the judge and prosecutor; thus the court properly left them out of the case. See *Anderson v. Donahoe*, 699 F.3d 989, 997 (7th Cir. 2012).

Mosley next argues that the district court erred by dismissing his claim against Holt. He criticizes the district court for consulting the state-court docket to understand the context of that claim. Proceedings in state court are proper subjects of judicial notice, *Ewell v. Toney*, 853 F.3d 911, 917 (7th Cir. 2017), but we need not consult them to conclude that Mosley’s claim against Holt is legally defective. The fatal problem with Mosley’s claim is that his amended complaint does not allege facts suggesting that Holt influenced the length of Mosley’s custody. At most, Mosley alleges that Holt, knowing that Mosley wrote to a dead victim, had no reason to prepare an affidavit stating that Mosley violated the terms of his probation. But Mosely never alleged (in his original complaint, amended complaint, or on appeal) that this affidavit led to or prolonged his custody. Without an allegation that Holt affected Mosley’s custody, the complaint fails to state a claim that Holt violated Mosley’s constitutional rights. See *Manuel v. City of Joliet*, 580 U.S. 357, 364–65 (2017); *Scott v. Harris*, 550 U.S. 372, 381 (2007).

Mosley also argues on appeal that Steve Sullivan, a deputy sheriff, violated his civil rights during the state proceedings. But this argument goes nowhere because Mosley never named Sullivan as a defendant in his amended complaint. See *Myles v. United States*, 416 F.3d 551, 552 (7th Cir. 2005).

Finally, Mosely argues that the district court erred by denying his motion for recruited counsel, a decision we review for an abuse of discretion. *Pruitt v. Mote*, 503 F.3d 647, 658 (7th Cir. 2007) (en banc). Mosley contends that he could not adequately represent himself because he was in jail. But a person’s status in custody, by itself, is not ground for the recruitment of counsel. See *Bracey v. Grondin*, 712 F.3d 1012, 1017–18 (7th Cir. 2013). Instead, a district court must weigh the complexity of the pro se litigant’s case at the time of the request against the litigant’s competence to represent himself. *Pruitt*, 503 F.3d at 655. Here, the court reasonably determined that the case at the pleading stage was straightforward, and that Mosley’s ability to represent himself, as reflected in his coherent filings and education, showed that he could handle this stage of litigation. We thus see no abuse of discretion in the denial of Mosley’s motion.

Mosley also requests appointment of counsel on appeal. We deny this request because counsel is not warranted under *Pruitt*.

AFFIRMED