United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted August 3, 2023[*]
Decided August 3, 2023

Before

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-3266

IESHUH GRIFFIN,
    Plaintiff-Appellant,
 	
    v.
 	
MILWAUKEE ELECTION
COMMISSION, et al.,
    Defendants-Appellees.
	Appeal from the United States District Court for the Western District of Wisconsin.
	
	No. 3:22-cv-00140-jdp
	
	James D. Peterson,
	Chief Judge.

O R D E R

Ieshuh Griffin, an unsuccessful candidate in the 2022 Milwaukee mayoral primary, appeals the district court's denial of her third post-judgment motion

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* The appellee was not served with process and is not participating in this appeal. We have agreed to decide the case without oral argument because the brief 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).

challenging the dismissal of her complaint that alleged improprieties in the election. Because the district court did not abuse its discretion, we affirm.

Griffin sued the Milwaukee Election Commission and various defendants involved in the primary election, alleging that they manipulated the election results and undercounted her share of the votes. According to printouts of media reports that she attached to her complaint, she received nearly 100,000 votes—15.7% of the vote—a figure that she says put her in second place and should have allowed her to advance to the general election. But the official vote count reflects that Griffin received only 315 votes, a seventh-place showing.

The district court screened her complaint and dismissed it with prejudice for failure to state a claim. The judge determined that Griffin's claims were implausible because her alleged tallies were "simply beyond mathematical possibility": The projected number of Milwaukee residents who would have to vote based on her alleged percentages outnumbered the entire population of Milwaukee.

Griffin moved for relief from the judgment under Rule 60 of the Federal Rules of Civil Procedure, asserting that the court did not have the authority to screen her complaint. The judge denied the motion because she did not address the facial implausibility of her claims. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Griffin proceeded to move for a default judgment against the defendants, saying that she had since served the defendants with a copy of her complaint and a summons. The judge denied the motion because only the court could issue a valid summons. *See* FED. R. CIV. P. 4(b).

Griffin then filed another post-judgment motion, rehashing many of the same arguments the court had rejected in its two previous orders denying post-judgment relief. The judge denied this motion, stating that Griffin had not raised any new argument that justified a different result.

On appeal Griffin raises two arguments, both meritless. First, she contends that the court abused its discretion in denying her relief from the order declining to enter default judgment. But as the judge explained, a default judgment was not warranted because whatever document Griffin says she served on the defendants was not a summons: Rule 4 of the Federal Rules of Civil Procedure plainly states that a valid summons can be issued only by the court. *See* FED R. CIV. P. 4(b). Second, she asserts

that the court wrongly dismissed her complaint by not giving her notice or an opportunity to amend. Although ordinarily a plaintiff should be afforded an opportunity to amend a complaint, *see Kowalski v. Boliker*, 893 F.3d 987, 996–97 (7th Cir. 2018), the judge here appropriately dismissed the complaint with prejudice because her allegations were facially implausible. *See Gandhi v. Sitara Cap. Mgmt., LLC*, 721 F.3d 865, 869 (7th Cir. 2013).

We have considered Griffin's remaining arguments, but none has merit.

AFFIRMED