NONPRECEDENTIAL DISPOSITION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 August 16, 2023*
Decided August 21, 2023

Before

DIANE P. WOOD, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1267

JERICO MATIAS CRUZ,
Plaintiff-Appellant,

v.

CITY OF CHICAGO, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 21-cv-06916

Mary M. Rowland,
Judge.

O R D E R

Jerico Matias Cruz believes that he was unlawfully arrested for criminal trespass after he refused to leave a Starbucks coffee shop when told to do so. He sued Starbucks, an employee of the store, the arresting officers, and the City of Chicago, accusing them of violating his civil rights. After Cruz failed to respond to a motion to dismiss, the

* 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).

district court granted the motion. Because the complaint does not provide a factual basis for liability, we affirm.

We accept the well-pleaded facts in the complaint as true and view them in the light most favorable to Cruz. *Wince v. CBRE, Inc.*, 66 F.4th 1033, 1039 (7th Cir. 2023). While Cruz was patronizing a Starbucks shop, an employee called the police, telling them Cruz was cursing loudly while on his phone and refused to leave when asked. After the police told Cruz to leave, he moved to an outdoor patio and then the parking lot, but remained on the property. Because he refused to leave, police arrested him for trespassing. A prosecutor did not pursue charges, and Cruz had the arrest expunged.

Cruz sued the city of Chicago, police officers, Starbucks, and the employee who called the police. He invoked, among other statutes, 42 U.S.C. §§ 1983 and 2000a(a), the latter of which prohibits discrimination in public accommodations. He also attached body-camera recordings of his arrest. Next, the district court screened his complaint. *See* 28 U.S.C. § 1915(e)(2). Reasoning that Cruz did "not make any direct allegations as to how [the laws he invoked] apply to his claims," the court dismissed most claims and defendants. It allowed him to proceed on a claim of unreasonable seizure under § 1983 against the arresting officers and the city, and it allowed him to amend his complaint to supply missing allegations for the other claims. In response, Cruz refiled his initial complaint (with no changes) and moved to reinstate the dismissed defendants.

The remaining defendants moved to dismiss, arguing that the body-camera recordings and Cruz's complaint showed probable cause for arrest, thus foreclosing false arrest liability. When Cruz did not respond, the court granted an extension sua sponte. He then sought another extension, which the court granted with a warning that it would be the last and that failure to meet that deadline could result in dismissal. Cruz again did not respond; instead, he sought another extension. Despite its earlier warning, the court granted a third extension, but Cruz did not respond by the deadline. About a month later, the court dismissed the case. It reasoned that the complaint and its attachments showed probable cause for the arrest, negating a claim of an unreasonable seizure. The court also denied Cruz's motion to reinstate the defendants dismissed at screening.

On appeal, Cruz focuses on what he contends was a violation of § 2000a(a), the public accommodations law, and he appears to contest the court's decision at screening to dismiss his claim under this statute. For that claim to survive screening, he needed to allege facts allowing the plausible inference that the defendants violated this law. *See Kaminski v. Elite Staffing, Inc.*, 23 F.4th 774, 777 (7th Cir. 2022). But Cruz did not

plausibly allege discrimination under § 2000a(a). His complaint lists the classes that § 2000a(a) protects, but it does not allege that his membership in a protected class motivated any defendant. Without that allegation, neither the court nor the defendants can infer how any adverse action was linked to a protected characteristic. *See id.* at 777–78. Moreover, Cruz refused to cure this defect. The court rightly gave Cruz a chance to amend his complaint and add these missing details, *see Smith v. Knox Cnty. Jail*, 666 F.3d 1037, 1040 (7th Cir. 2012) (pro se litigants should be allowed to amend), but he did not do so. And even now Cruz's briefing does not fill in this crucial gap.

To the extent that Cruz challenges the dismissal of his claim for unreasonable seizure, he argues that because he was not convicted, his seizure by arrest must have been unlawful. He abandoned this argument by not raising it in the district court, despite numerous chances to do so. In any case, the validity of an arrest does not turn on an eventual conviction. Rather, the question is whether the arrest was supported by probable cause, an absolute defense to liability for the arrest. *See Gill v. City of Milwaukee*, 850 F.3d 335, 342 (7th Cir. 2017). And based on the complaint and the attached body-camera recordings, Cruz refused to leave Starbucks's property when told to do so, providing probable cause for the officers to arrest him for trespassing.

AFFIRMED