

NONPRECEDENTIAL DISPOSITION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 February 16, 2024*

Decided February 20, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-2348

JUSTIN L. DALCOLLO,
Plaintiff-Appellant,

v.

ANTHONY WILLS, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 23-cv-000828-SPM

Stephen P. McGlynn,
Judge.

ORDER

Justin Dalcollo, a prisoner at Lawrence Correctional Center in Illinois, has sued over two dozen prison staff to challenge prison conditions, his allegedly wrongful conviction, and other asserted acts. *See* 42 U.S.C. § 1983. The district court screened and properly dismissed his amended complaint for failure to state a claim; we thus affirm.

* The defendants were not served with process and are not participating in the appeal. We have agreed to decide the case without oral argument because the appellant's 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).

Dalcollo's amended complaint is unclear but appears to seek relief based on three broad categories. First, he contests his prison conditions. He asserts that prison staff have celled him with officers who intend to kill him, forced him to take estrogen, denied him law library access, and impeded him from filing grievances. Second, he alleges that he was wrongly tried and convicted, and as a result, is enslaved in violation of his civil rights. Finally, he asserts that the defendants have tampered with witnesses, obstructed justice, bribed officials, embezzled federal funds, and trafficked humans. The only allegations that Dalcollo appears to tie to the defendants concern his conviction.

The district court dismissed Dalcollo's original complaint for failure to state a plausible claim for relief, gave Dalcollo leave to amend it, and when the amended complaint did not cure the defect, the court dismissed it as well. *See* 28 U.S.C. § 1915(e)(2). The court observed that, for the majority of the allegations in the amended complaint, Dalcollo did not attribute them to any particular defendant or state when or where the alleged incidents occurred; he thus denied the defendants fair notice of the claims. For the allegations that Dalcollo tied to the defendants, the court ruled that they appeared to contest Dalcollo's underlying, intact conviction; thus a claim for damages arising from it was blocked by *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1993).

Dalcollo raises no cogent argument on appeal; as a result, we could dismiss his appeal. *See Anderson v. Hardman*, 241 F.3d 544, 545–46 (7th Cir. 2001); FED. R. APP. P. 28(a)(8)(A). But we prefer to decide cases on the merits when we can, and we do so here. *See Boutros v. Avis Rent A Car Sys., LLC.*, 802 F.3d 918, 924 (7th Cir. 2015).

We review a dismissal based on lack of fair notice for abuse of discretion, *see Stanard v. Nygren*, 658 F.3d 792, 796–97 (7th Cir. 2011), and the district court did not abuse its discretion here. Rule 8(a)(2) of the Federal Rules of Civil Procedure requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” The primary purpose of this requirement “is to give defendants fair notice of the claims against them and the grounds supporting the claims.” *Stanard*, 658 F.3d at 797. Dalcollo's amended complaint, the district court reasonably ruled, fails to meet this requirement: By raising wide-ranging allegations without attributing them to any defendant, Dalcollo deprived the defendants of fair notice of what he accused them of doing, despite having received a chance to cure this defect. Without a “plain statement” of a claim, Dalcollo failed to state a claim for relief. *See Taha v. Int'l Bhd. of Teamsters, Loc. 781*, 947 F.3d 464, 469 (7th Cir. 2020).

The district court also properly dismissed Dalcollo's wrongful-imprisonment claim. Although Dalcollo ties this claim to the defendants, the relief he seeks is not now available. An award of damages would necessarily imply the invalidity of his intact conviction, and under *Heck*, he may not pursue a claim for damages unless and until his conviction has been set aside or invalidated. *Heck*, 512 U.S. at 486–87. And if Dalcollo seeks release from state prison, he must file a proper petition for collateral relief, *see* 28 U.S.C. § 2254, and comply with the procedural and exhaustion requirements, rather than invoke § 1983, *see Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

For purposes of future proceedings under 28 U.S.C. § 1915A, this affirmance for failure to state a claim is a “strike” under 28 U.S.C. § 1915(g).

AFFIRMED