NONPRECEDENTIAL DISPOSITION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 24, 2024*
Decided April 30, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-3051

EDDIE L. HATCH JR. and MICHELLE DAVIS-HATCH, *Plaintiffs-Appellants*,	Appeal from the United States District Court for the Eastern District of Wisconsin.
v.	No. 20-CV-1791-JPS
TOM BARRETT, et al., *Defendants-Appellees*.	J.P. Stadtmueller, *Judge*.

* This successive appeal has been submitted to the original panel under Operating Procedure 6(b). Judge Kanne died after the first decision and has been replaced for this panel by Judge Easterbrook. 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).

O R D E R

Eddie Hatch Jr. and Michelle Davis-Hatch believe that the City of Milwaukee, Milwaukee's then-Mayor Tom Barrett, and others rejected their effort to buy a commercial building because of racial discrimination, in violation of the Civil Rights Act of 1866 and the Fair Housing Act. Early in the proceedings, the district court dismissed certain counts and defendants. The court ultimately entered summary judgment against the Hatches on the remaining counts. In this appeal, the Hatches principally challenge the district court's denial of their initial attempt to amend the complaint. We affirm.

In 2020, the Hatches brought this suit for racial discrimination under the Fair Housing Act against more than 20 entities involved with the denial of their commercial bid. *See* 42 U.S.C. § 3604. The district court dismissed the Hatches' complaint for failure to state a claim because the Act covers residences and not commercial buildings. Recognizing that the Hatches needed to plead merely their grievances and not a legal theory, *see, e.g.*, *Johnson v. City of Shelby*, 574 U.S. 10, 12 (2014) (per curiam), we vacated the dismissal order as premature and remanded with instructions to afford the Hatches an opportunity to amend the complaint and possibly plead their claim under 42 U.S.C. § 1982. *Hatch v. City of Milwaukee*, No. 21-2805, 2022 WL 897676 (7th Cir. Mar. 28, 2022).

But the Hatches' efforts to replead bogged down. Their first attempt invoked multiple legal theories—fraud, intentional infliction of emotional distress, defamation, and racial discrimination—and ran 85 pages, supplemented with another 272 pages of exhibits. The district court denied the motion to amend, describing it as a "far cry" from the "short and plain statement" envisioned by Rule 8(a)(2) of the Federal Rules of Civil Procedure. The Hatches filed a second amended complaint, removing the exhibits and excising the extensive references to them. The court accepted this version.

Several defendants then filed a flurry of motions to dismiss, which the court granted in part and denied in part. The court permitted the Hatches to proceed with several counts that alleged racial discrimination surrounding the bidding process, *see* 42 U.S.C. §§ 1981–1983, and a theory of defamation against an individual defendant. But the court dismissed, with prejudice, other counts that it found inapplicable, including theories that the rejected bid amounted to destruction of government property or contracts, *see* 18 U.S.C. § 1361, or that they had a constitutional right to be free from defamation. And the court dismissed—but with leave to amend—theories of fraud and racketeering, *see* 18 U.S.C. §§ 1341, 1343, 1961–1968; intentional infliction of emotional distress; or a municipal policy or custom of racial discrimination.

The Hatches responded with a document they styled as a third amended complaint. In it, the Hatches rehashed the procedural background and expressed particular displeasure with the court's rejection of their first amended complaint. They insisted that the first amended complaint did not have the deficiencies that the district court identified with respect to the second amended complaint.

The court, noting that the Hatches' submission was not an amended complaint but merely criticism of prior rulings, denied the motion. The court dismissed with prejudice the outstanding counts for which the Hatches had leave to amend but permitted the Hatches to litigate their counts of racial discrimination against all non-municipal defendants, as well as a state-law defamation theory against an individual defendant.

After discovery, the court entered summary judgment on the Hatches' remaining counts. Regarding their arguments under § 1981 and § 1982, the court explained that the Hatches had not proffered evidence that their bid was denied on account of their race. As for their § 1983 civil conspiracy theory, the court concluded that the Hatches could show neither that a conspiracy existed nor that any supposed conspiracy deprived them of their constitutional rights. And concerning the state-law defamation argument, the court determined that the challenged statement was a matter of opinion, arguably not false, and lacked negative connotation.

On appeal, the Hatches largely confine their challenge to the district court's rejection of their first amended complaint. Given the complexity and number of their theories of liability, they contest the court's reliance on Rule 8(a) and its command that complaints provide a "short and plain statement." They add, in connection with their allegations of fraud, that Rule 9(b) of the Federal Rules of Civil Procedure required them to "state with particularity" the basis of their claim. And they maintain that their first amended complaint mirrored their second amended complaint, minus the lengthy attachments and references.

The district court did not commit reversible error here. "[A] district court does not abuse its discretion by denying a motion for leave to amend when the plaintiff fails to establish that the proposed amendment would cure the deficiencies identified in the earlier complaint." *See Pension Tr. Fund for Operating Eng'rs v. Kohl's Corp.*, 895 F.3d 933, 941–42 (7th Cir. 2018) (alteration in original) (quoting *Gonzalez-Koeneke v. West*, 791 F.3d 801, 807 (7th Cir. 2015)). Here, the court afforded the Hatches multiple opportunities to shore up deficiencies it had noted. The Hatches could have taken up the court's invitation to file another amended complaint and address the identified deficiencies or

they could have told us in their briefing what more they would plead. But they did neither. Reversal is unwarranted if the plaintiffs cannot identify how they would cure defects in their complaint. *Id.* at 942.

The Hatches contend that the court's purportedly improper rejection of their first amended complaint reflected bias that affected the entirety of the proceedings. But adverse legal rulings by themselves are not enough to show impermissible bias. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

Finally, the Hatches do not challenge the summary judgment order dismissing their counts of racial discrimination, so we consider those waived. *Bradley v. Village of University Park*, 59 F.4th 887, 897 (7th Cir. 2023).

We have reviewed the Hatches' remaining arguments; none merits discussion.

AFFIRMED