

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-1462

AARON J. BRESSI,
Appellant

v.

COMMONWEALTH OF PENNSYLVANIA PAROLE BOARD; MS. STANTON, Pre
Parole; TERRY SMITH, Hearing Examiner; LEO DUNN, Board Member

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:21-cv-01265)
District Judge: Honorable Matthew W. Brann

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
September 21, 2022

Before: GREENAWAY, JR., PORTER, and NYGAARD, Circuit Judges

(Opinion filed: November 30, 2022)

OPINION*

PER CURIAM

Aaron Bressi, a prisoner proceeding pro se, appeals the dismissal of his civil-rights action. We will affirm.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Bressi, who is serving an eight-year prison sentence, brought this action under 42 U.S.C. § 1983 against the Pennsylvania Parole Board and three state employees associated with the Board, alleging that his substantive due-process rights were violated when he was denied parole. Attached as an exhibit to the complaint was the Parole Board's decision denying parole, including its reasons for doing so. For relief, Bressi requested one million dollars in damages and to be released from prison custody.

The District Court granted Appellees' motion to dismiss, and dismissed the complaint with prejudice for failure to state a claim. Bressi timely appealed and the matter is fully briefed.¹

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We exercise plenary review over the District Court's decision to grant a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). See Newark Cab Ass'n v. City of Newark, 901 F.3d 146, 151 (3d Cir. 2018). To survive a motion to dismiss for failure to state a claim, a complaint "must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quotation marks omitted). We accept all factual allegations in the complaint as true and construe those facts in the light most favorable to the plaintiff. Fleisher v. Standard Ins. Co., 679 F.3d 116, 120 (3d Cir. 2012). We also construe Bressi's pro se pleadings liberally. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per

¹ Bressi has also filed motions for default judgment, for the appointment of counsel, and to proceed in forma pauperis for purposes of his counsel motion. These motions are denied.

curiam). Additionally, we can consider the Parole Board’s decision attached to Bressi’s complaint in determining whether the District Court’s dismissal was appropriate. See Davis v. Wells Fargo, 824 F.3d 333, 341 (3d Cir. 2016) (explaining that in evaluating whether a Rule 12(b)(6) dismissal was appropriate, we may examine “exhibits attached to the complaint, matters of public record, as well as undisputedly authentic documents if the complainant’s claims are based upon these documents”) (citation omitted).

The District Court did not err in concluding that Bressi failed to state a claim for a substantive due-process violation because the reasons provided by the Parole Board, including Bressi’s failure to accept responsibility, were not arbitrary or conscience-shocking. See Holmes v. Christie, 14 F.4th 250, 267 (3d Cir. 2021); Newman v. Beard, 617 F.3d 775, 782 (3d Cir. 2010) (holding that the denial of parole based on an inmate’s refusal to admit his guilt did not violate his substantive due-process rights).² The District Court did not abuse its discretion or otherwise err in dismissing the complaint without providing Bressi an opportunity to amend, because amendment would have been futile, given the simple facts of the case and the reasoning provided by the Parole Board. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).³

² The reasons provided by the Parole Board for denying parole were Bressi’s “prior unsatisfactory parole supervision history”; “[r]eports, evaluations and assessments/level of risk indicat[ing] [his] risk to the community”; his “failure to demonstrate motivation for success”; his “minimization/denial of the nature and circumstances of the offense(s) committed”; his “refusal to accept responsibility for the offense(s) committed”; and his “lack of remorse for the offense(s) committed.” (Dkt. No. 1-1 at 1).

³ Additionally, in this regard, we note that Appellees correctly asserted several more reasons that dismissal was appropriate, including that, to the extent that Bressi sought release from detention, habeas corpus was the only means he could employ, see Preiser v. Rodriguez, 411 U.S. 475, 500 (1973); the Pennsylvania Parole Board is not a cognizable

Accordingly, for the foregoing reasons, we will affirm the District Court's dismissal of Bressi's complaint.

§ 1983 defendant for money damages, see Thompson v. Burke, 556 F.2d 231, 232 (3d Cir. 1977); two of the individual Appellees, Dunn and Smith, were entitled to immunity from claims for damages as Parole Board Members exercising their adjudicatory duties, see Harper v. Jeffries, 808 F.2d 281, 284 (3d Cir. 1986); and the complaint was barred by the favorable termination rule of Heck v. Humphrey, 512 U.S. 477 (1994), which we have applied to Parole Board decisions, see Williams v. Consovoy, 453 F.3d 173, 177 (3d Cir. 2006).