NONPRECEDENTIAL DISPOSITION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 June 23, 2023*
Decided June 27, 2023

Before

DIANE P. WOOD, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2750

SHEILA ARNOLD, as Administrator of the Estate of Brandon C. Lewis, *Plaintiff-Appellant*,	Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.
v.	No. 1:21-cv-02769-JMS-MG
STATE OF INDIANA, et al., *Defendants-Appellees*.	Jane Magnus-Stinson, *Judge*.

O R D E R

Sheila Arnold, the mother of Brandon Lewis, sued the Indiana Department of Correction on behalf of her son's estate after he died in state custody. After Arnold's court-recruited counsel withdrew, Arnold proceeded pro se. The district court repeatedly warned Arnold that, because the estate had multiple beneficiaries, it had to

* 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).

appear through an attorney. When Arnold continued unrepresented, the court dismissed the case. We affirm.

We accept the complaint's factual allegations as true and draw reasonable inferences in the plaintiff's favor. *See Otis v. Demarasse*, 886 F.3d 639, 644 (7th Cir. 2018). On the day her son died, Arnold was driving to a visit at Wabash Valley Correctional Facility in Carlisle, Indiana. While on the road, she received a series of calls from another Wabash detainee (an acquaintance of Arnold's passenger, it appears). In the first, he explained that there was an ongoing medical emergency involving Arnold's son. In the second, he elaborated that her son was receiving CPR. In the third, he shared the tragic news that her son had died. When Arnold arrived at the prison, investigators confirmed that her son had died, and she saw his body in an ambulance. She noticed that his eyes were "black and wide open" and "blood was on his head."

Wabash staff later told Arnold that her son, while hallucinating under the influence of drugs, had died after striking his head against walls and bed rails, and otherwise injuring himself. Arnold believes that, at best, correctional staff allowed this to happen despite knowing that her son was a drug user and being required to check on him at least every half hour. At worst, his injuries showed that someone had beaten and stabbed him, suggesting to Arnold foul play and a cover-up.

Arnold, as the administrator of her son's estate, sued the prison's policymakers, the officers on duty at the time, the Indiana Department of Correction, and the State of Indiana. Arnold's pro se complaint included ten counts, each stating a legal theory, including various constitutional violations and a state-law claim for intentional infliction of emotional distress based on her viewing of her son's body. Arnold sought damages for herself and her son's children as beneficiaries of the estate.

Two months after Arnold filed her complaint, the district court granted her motion for recruitment of counsel. But just one week later, citing a request from Arnold, counsel moved to withdraw. After holding a telephone conference, the court granted the motion, warned Arnold that she could not represent the estate herself, and set a deadline of 20 days for her to secure new counsel.

On the day of the initial deadline, the court granted a three-week extension of time for Arnold to obtain new counsel or show cause why the case should not be dismissed. The court also warned her that failure to comply could result in the case being dismissed "without further warning or opportunity to show cause." Arnold, still pro se, responded to the rule to show cause by arguing that, as administrator, she had

standing to sue, and that she had a constitutional right to represent her son's estate without having a lawyer. In response, the court warned her that she could not act pro se because the estate was the real party in interest, and only natural persons may act pro se (and may not represent others). The court admonished Arnold that if she did not obtain new counsel in 15 days, it would dismiss the case.

Arnold then moved for leave to amend her complaint so she could proceed as the next friend of her son's children, or alternatively, for the re-recruitment of counsel for the estate. The district judge referred the motion to the assigned magistrate judge. After a hearing, the magistrate judge denied the motion and recommended that the case be dismissed without prejudice because Arnold could not represent the estate without a lawyer but had already rejected one court-recruited counsel. Arnold did not object to the report and recommendation. A month later, the district judge adopted it in full, dismissed the case without prejudice, and entered final judgment.

Arnold, still pro se, appeals. To begin, we confirm that we have appellate jurisdiction. The district court dismissed the complaint without prejudice. Often, this is a signal that the case is not fully resolved, rendering the judgment non-final and unappealable. *See Carter v. Buesgen*, 10 F.4th 715, 720 (7th Cir. 2021). This is not such a case. Here, the court was clearly "done with the case": it did not allow amendment of the complaint, Arnold could no longer timely object to the magistrate judge's report and recommendation, and the court entered a separate judgment order labeled "final." *See Davis v. Advocate Health Center Patient Care Express*, 523 F.3d 681, 683 (7th Cir. 2008). Moreover, the two-year statute of limitations, which, for § 1983 claims, we borrow from Indiana law, has now run. *See* Ind. Code § 34-11-2-4; *Richards v. Mitcheff*, 696 F.3d 635, 637 (7th Cir. 2010). The claims are no longer revivable, and so the judgment is final. *See Anderson v. Catholic Bishop of Chicago*, 759 F.3d 645, 649 (7th Cir. 2014). We therefore have jurisdiction under 28 U.S.C. § 1291.

On appeal, Arnold argues that requiring her to obtain a lawyer for the estate violates her First and Fourteenth Amendment rights to freedom of religion and speech and to due process of law. But we have held that a non-attorney representative of an estate with multiple beneficiaries (like Arnold) cannot litigate pro se because doing so would be representing another party in litigation without a law license. *See* 28 U.S.C. § 1654; *Malone v. Nielson*, 474 F.3d 934, 937 (7th Cir. 2008). Arnold urges, in broad terms, that this holding imperils her constitutional rights. But states may impose licensing qualifications so long as they have a "rational connection" with the "fitness or capacity to practice law." *Schware v. Bd. of Bar Examiners*, 353 U.S. 232, 239 (1957); *see also Scariano*

v. Justices of the Supreme Court of Ind., 38 F.3d 920, 923 (7th Cir. 1994). And our concern is for the estate; the purpose of the federal rule forbidding one person from litigating *pro se* on behalf of another person or entity "is to protect the rights of the represented party." *Elustra v. Mineo*, 595 F.3d 699, 706 (7th Cir. 2010). Arnold's rights must yield to this sound restriction on the unlicensed practice of law.

Arnold continues that she should have been allowed to proceed as next friend of her son's minor children. *See* FED. R. CIV. P. 17(c). She might be entitled to do so, but, again, not pro se: "[T]he normal rule is that a next of friend may not, without the assistance of counsel, bring suit on behalf of a minor party." *Elustra,* 595 F.3d at 704.

Finally, Arnold contends that the district court should not have dismissed her claim of intentional infliction of emotional distress because it does not belong to the estate. But she waived her argument by not objecting within 14 days to the magistrate judge's report and recommendation, which included a warning of the consequences of the failure to object. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); *Lorentzen v. Anderson Pest Control*, 64 F.3d 327, 330 (7th Cir. 1995). And regardless, Arnold is a party only in her representative capacity, so she cannot raise arguments that pertain to claims that she would have to bring personally.

We note, however, that Arnold is correct that, as pled, the emotional-distress claim belongs to her personally. Thus, because the federal complaint identifies the estate as the only plaintiff, the judgment in this case does not preclude Arnold from pursuing any personal claims in the appropriate forum, with or without an attorney, subject to the statute of limitations and any other defenses.

AFFIRMED