

NONPRECEDENTIAL DISPOSITION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 January 5, 2023*

Decided January 9, 2023

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 22-2789

CRISTIAN LOGA-NEGRU,
Plaintiff-Appellant,

Appeal from the United States District
Court for Eastern District of Wisconsin.

v.

No. 22-C-0909

MIRELA ZALEWSKI,
Defendant-Appellee.

Lynn Adelman,
Judge.

ORDER

Cristian Loga-Negru, currently imprisoned for murdering his estranged wife, appeals the dismissal of his complaint alleging that his wife's acquaintance Mirela Zalewski violated his federal constitutional rights and Wisconsin state law by causing his wife, Roxana Abrudan, to leave the marriage. The district judge dismissed Loga-

* The appellee was not served with process and is not participating in this appeal. We have agreed to decide the case without oral argument because the 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).

Negru's federal claims on the merits and his state-law claims "for lack of subject-matter jurisdiction," and we affirm.

We accept as true the facts alleged by Loga-Negru, *Parish v. City of Elkhart*, 614 F.3d 677, 679 (7th Cir. 2010), and we take judicial notice of court records related to his conviction, see *Ennenga v. Starns*, 677 F.3d 766, 773–74 (7th Cir. 2012). Loga-Negru and Abrudan married in July 2014 and lived together in Illinois. That September, she began working for Tactical Design, a company where Zalewski was her supervisor. Abrudan and Zalewski worked closely together and sometimes traveled out of state. Loga-Negru and Abrudan became embroiled in conflict, and she moved out of their shared home. At some point she began staying at Zalewski's home in Wisconsin, where Loga-Negru killed her on November 19, 2014. He later pleaded no contest to first-degree intentional homicide in Wisconsin criminal court and is now serving a life sentence. *State v. Loga-Negru*, 970 N.W.2d 565 (Wis. Ct. App. July 14, 2021).

In August 2022, Loga-Negru, proceeding pro se, sued Zalewski. After his initial complaint was dismissed at screening, he filed an amended complaint in which he alleged that Zalewski was the "proximate cause" of his estrangement from Abrudan. (Loga-Negru suspected romantic involvement between Zalewski and his late wife.) Loga-Negru asserted that Zalewski's actions violated his rights under the First and Eighth Amendments and gave rise to a variety of tort claims under Wisconsin law. Loga-Negru also accused Zalewski of employment discrimination against his deceased wife. He sought almost \$2 million in damages for himself (for "loss of consortium," "economic loss," and reputational damage); for his parents (for their mental suffering) and for Abrudan's parents (for Zalewski's "contribution" to Abrudan's "demise").

The district judge dismissed the amended complaint at screening. 28 U.S.C. § 1915A. The judge construed Loga-Negru's primary claims as arising under 42 U.S.C. § 1983 and determined that the amended complaint did not adequately allege either a violation of Loga-Negru's constitutional rights or any act under color of state law. And, in any event, the complaint—brought eight years after the relevant events—was obviously untimely. See WIS. STAT. § 893.53 (2014); *Huber v. Anderson*, 909 F.3d 201, 207 (7th Cir. 2018) (section 1983 borrows what was, at the time of the events, Wisconsin's six-year limitation period for personal injuries). The judge also determined that Loga-Negru could not bring an employment discrimination claim on behalf of his deceased wife. See FED R. CIV. P. 17(a)(1); *Massey v. Helman*, 196 F.3d 727, 739 (7th Cir. 1999) (litigants generally cannot assert the legal rights of a third party).

As to the state-law claims, the judge determined that the alleged violations of state law could not form the basis for a § 1983 action. *See Swarthout v. Cooke*, 562 U.S. 216, 221–22 (2011). And, to the extent Loga-Negru wished to bring the state-law claims directly, the judge relinquished subject-matter jurisdiction because there were no remaining federal claims and no diversity of citizenship between Loga-Negru and Zalewski—both, the judge stated, Wisconsin citizens. *See* 28 U.S.C. §§ 1367(c)(3), 1332.

On appeal, Loga-Negru raises numerous arguments, but none convinces us that this appeal is anything but frivolous. We begin with his federal claims. Loga-Negru contends that Zalewski is amenable to suit under § 1983 because Tactical Designs is a “state-related contractor,” though he provides no details to make this plausible—and, either way, Zalewski engaging in a personal relationship with Abrudan could not satisfy § 1983’s requirement of action taken “under color of state law.” *DiDonato v. Panatera*, 24 F.4th 1156, 1162 (7th Cir. 2022). Further, Loga-Negru does not even attempt to address the issue of timeliness; he has thus waived any challenge to the judge’s alternate conclusion. *See Klein v. O’Brien*, 884 F.3d 754, 757 (7th Cir. 2018). Finally, without suggesting that there was a viable claim of employment discrimination, we agree that Loga-Negru could not bring such a claim on his deceased wife’s behalf. *See Dunnet Bay Const. Co. v. Borggren*, 799 F.3d 676, 689 (7th Cir. 2015).

Declining to exercise jurisdiction over Loga-Negru’s vague and conclusory state-law claims was also appropriate. We note that, although the district judge stated that both parties are Wisconsin citizens, Loga-Negru’s complaint alleges that he is a citizen of Illinois. We accept a plaintiff’s citizenship allegations unless challenged, so at this stage, we assume the parties are citizens of different states. *See Sanders v. Melvin*, 873 F.3d 957, 961 (7th Cir. 2017). That Loga-Negru is imprisoned in Wisconsin does not make him a citizen of that state. *See Bontkowski v. Smith*, 305 F.3d 757, 763 (7th Cir. 2002).

But this does not establish diversity jurisdiction. For one thing, even giving Loga-Negru “the benefit of all doubt,” *see Schlessinger v. Salimes*, 100 F.3d 519, 521 (7th Cir. 1996), he could not meet the amount-in-controversy requirement of 28 U.S.C. § 1332. The requested damages stem from his wife’s untimely death, and state law would not allow a murderer to receive damages for harms his crime caused. *Cf. In re Wilson’s Will*, 92 N.W.2d 282, 284 (Wis. 1958) (stating, in probate context, that Wisconsin courts are “firmly committed to the principle that a murderer will not be permitted to profit by his crime”). Loga-Negru also requests damages on behalf of his parents and parents-in-law, but they are not parties, so we do not take those alleged damages into account. *See Dunnet Bay Const. Co.*, 799 F.3d at 689. Albeit for a different reason, then, the district

judge was correct that there was no diversity jurisdiction. Therefore, relinquishing supplemental jurisdiction over the state-law claims (which is how we interpret the dismissal for “lack of” jurisdiction) and dismissing them without prejudice was appropriate. *See* 28 U.S.C. § 1367(c)(3); *RWJ Mgmt. Co. v. BP Prods. N. Am., Inc.*, 672 F.3d 476, 479–80 (7th Cir. 2012).

Loga-Negru should not take this as encouragement to turn to state court. We note that his state-law claims are so farfetched as to appear frivolous, and we question how they could possibly be timely under Wisconsin law. *See* WIS. STAT. § 893.53 (2014).

Finally, we note that, for the first time on appeal, Loga-Negru asserts that, in his criminal case, Zalewski conspired with a Wisconsin prosecutor to deprive him of his constitutional right to a jury trial. Presumably this is a response to the dismissal of the § 1983 claims for want of a “state actor.” But no such assertion, let alone supporting factual allegations, appears in the amended complaint. *Johnson v. Prentice*, 29 F.4th 895, 903 (7th Cir. 2022) (pro se plaintiff waived § 1983 claim not raised in district court). And because success on such a claim would undermine his still-valid murder conviction, it would be barred by *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994).

For purposes of future proceedings under 28 U.S.C. § 1915A, this affirmance on the merits should be counted as a strike. 28 U.S.C. § 1915(g).

AFFIRMED