NONPRECEDENTIAL DISPOSITION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 November 28, 2023*
Decided November 29, 2023

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1620

ANTHONY ROLAND,
Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:22-cv-01066

Martha M. Pacold,
Judge.

O R D E R

Believing that the government was spying on him through his television, Anthony Roland sent requests under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to federal agencies for documents about that spying. He targeted two divisions of the Department of Justice: the FBI and the National Security Division. The Department told Roland that a search had not identified any records responsive to his request and

* We have agreed to decide the case without oral argument because the appeal is frivolous. FED. R. APP. P. 34(a)(2)(A).

that records, if they existed, were exempt from disclosure. *See* 5 U.S.C. § 552(b)(1). The Department also told Roland of his right to file, and how to file, an administrative appeal. The Department's internal records show that he did not file one.

Instead, he sued the Department under FOIA for failing to disclose records. During the short-lived suit, he unsuccessfully moved for the court to recruit counsel, and the Department successfully moved for a protective order staying discovery. Later, the court granted the Department's motion for summary judgment. It reasoned that Roland's claim that the Department had documents about spying on him through his television were implausible, and he had not exhausted his administrative remedies.

On appeal, Roland raises three baseless attacks on the judgment. First, he argues that summary judgment was improper because, he says, he did not receive the required notice, *see* FED. R. CIV. P. 56(f), of the Department's motion. True, the Department did not file a certificate of service, *see* N.D. ILL. R. 56.2, but Roland told the court that he was using its electronic filing system, so the certificate was not required, *see* N.D. ILL. R. 5.9. And because he cannot show prejudice—he acknowledged receiving the motion, requested more time to respond to it, and received more time than he requested—relief is not warranted. *See Kincaid v. Vail*, 969 F.2d 594, 599 (7th Cir. 1992). Second, Roland contends that he exhausted administrative remedies. But he points only to the letters instructing him how to appeal administratively. They do not suggest that he followed through on the appeal, as he had to do. *See Scherer v. Balkema*, 840 F.2d 437, 443 (7th Cir. 1988) (affirming dismissal where appellant failed to exhaust remedies under FOIA). Third, he argues that the court wrongly ruled that his claim about spying over television was implausible. We review that ruling for abuse of discretion, *see Felton v. City of Chicago*, 827 F.3d 632 (7th Cir. 2016), and the court did not abuse its discretion here: Roland relies on video recordings of television news personalities who he insists unrealistically were responding to hand gestures that he made in front of his television.

Roland also contests two procedural rulings. He argues that the district court abused its discretion by denying his motion for counsel. But as a civil litigant, he had no right to counsel, *see Lush v. Bd. of Trs. of N. Ill. Univ.*, 29 F.4th 377, 380 (7th Cir. 2022), and nothing here warranted a favorable exercise of discretion. He also attacks the order staying discovery. But "entertain[ing] summary-judgment motions before discovery" fell within the court's "considerable discretion[,]" especially because Roland did not need discovery to contest the evidence that he failed to exhaust administrative remedies. *Henson v. Dep't of Health & Hum. Servs.*, 892 F.3d 868, 874 (7th Cir. 2018).

AFFIRMED