NONPRECEDENTIAL DISPOSITION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 30, 2023

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1962

SOVEREIGNTY JOESEPH HELMUELLER SOVEREIGN FREEMAN,
Plaintiff-Appellant,

v.

LANA WILSON, et al.,
Defendants-Appellees.

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

No. 23-cv-0297-bhl

Brett H. Ludwig,
Judge.

O R D E R

Sovereignty Joeseph Helmueller Sovereign Freeman, a state prisoner in Wisconsin, sued prison officials under 42 U.S.C. § 1983 for violating his constitutional rights by opening his legal mail outside of his presence. At screening, the district court dismissed his complaint for failure to state a claim, and we affirm.

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* 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).

Helmueller, who previously went by the name Andrew Jacob Helmueller, alleges unnamed officials at Waupun Correctional Institution opened four pieces of what he calls "legal mail" addressed to him. One mailing contained a summons from the St. Croix County District Attorney, and the other three were from attorneys at Crivello Carlson, S.C., the law firm representing the defendants in another lawsuit Helmueller had filed. These mailings consisted of court filings, including a motion for summary judgment that required a timely response. The four pieces of mail, each stamped with "Exempt Correspondence Open in Presence of Inmate," were opened outside of Helmueller's presence and then placed in the door of his prison cell. Helmueller sought $1,000 in damages for each piece of opened mail, in addition to punitive damages.

After allowing Helmueller an opportunity to cure deficiencies in his initial complaint, the district court reviewed the amended complaint and dismissed it for failure to state a claim. *See* 28 U.S.C. § 1915A(b). Understanding Helmueller to allege a violation of his constitutional right to access the courts in connection with the opened mail—among several other claims—the district court concluded that Helmueller did not state a claim. The court explained that the mail in question would not give insight into any litigation strategy, and Helmueller did not identify any legal claim that was lost because of the defendants' conduct; thus, he suffered no constitutional harm. The district court dismissed the amended complaint, ordered the entry of final judgment, and noted that Helmueller incurred a strike for purposes of 28 U.S.C. § 1915(g).

On appeal, Helmueller challenges only the district court's ruling that he failed to state a claim against the prison officials for violating his constitutional right to access the courts. He therefore waives arguments about his other claims. *Hackett v. City of South Bend*, 956 F.3d 504, 510 (7th Cir. 2020). We review the dismissal at screening de novo. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015).

Helmueller's primary argument on appeal urges us to adopt an approach to his claim that we have already rejected. Relying on decisions of other circuit courts, Helmueller argues that the district court should not have distinguished between legal mail from a prisoner's lawyer and public or nonconfidential documents of a legal nature. *Compare, e.g.*, *Sallier v. Brooks*, 343 F.3d 868, 876–77 (6th Cir. 2003), *with Guajardo-Palma v. Martinson*, 622 F.3d 801, 804 (7th Cir. 2010).

We see no reason to depart from our existing approach. The right of access to the courts, which can be grounded in multiple constitutional provisions, *see Christopher v. Harbury*, 536 U.S. 403, 415 n.12 (2002), includes the right to keep "legal" mail private.

Guajardo-Palma, 622 F.3d at 802–03. Given the importance of confidential communication between lawyer and client in formulating litigation strategy, destroying that confidentiality infringes the right of access to the courts. *See id.* Yet prisons need not trust every envelope labeled "legal mail" and must be permitted to verify the nature of the communication. *Id*. at 803–04. To accommodate both interests, we have explained that a prisoner should be allowed to be present when the legal mail is opened. *Id*. at 804. This rule, however, applies only to correspondence from a lawyer in pending or impending litigation or from a court about a non-public matter. *Id.* at 804.

Here, none of the mail that the officers opened outside of Helmueller's presence contained information that could give them an edge in litigation (if, indeed, Helmueller has any other pending litigation against the prison). *See id.* at 806. Public documents and "routine and nonsensitive" documents do not implicate the right of access because reading them would not give prison officials insights into a prisoner's legal strategy or interfere with confidentiality. *Id.* at 804–806. (Indeed, Helmueller could not have any "confidential" communication from *opposing* counsel.) Here, the summons and the court documents sent by opposing counsel were filed on public dockets. *See Bond v. Utreras*, 585 F.3d 1061, 1073 (7th Cir. 2009). Opening them outside Helmueller's presence—indeed, reading them—could not violate his right to access the courts. *Guajardo-Palma*, 622 F.3d at 806.

Nevertheless, Helmueller argues that the district court should have adopted the principle that mail from a court cannot be opened outside the presence of a prisoner who has specifically requested otherwise, even if the mail may consist only of public documents. *Sallier*, 343 F.3d at 877. But we have previously considered and rejected this argument, *see Guajardo-Palma*, 622 F.3d at 804, and the district court correctly applied our precedent in dismissing Helmueller's claim.

Further, Helmueller does not allege that the defendants hindered him in his pursuit of any legal matter, which he must do to state a claim of denial of access to the courts. *Lewis v. Casey*, 518 U.S. 343, 354 (1996); *In re Maxy*, 674 F.3d 658, 660–61 (7th Cir. 2012) (collecting cases). Helmueller does not articulate any connection between the opening of his mail and his inability to pursue a legal claim, nor does he assert that the defendants' practice intimidated him from litigating. *Guajardo-Palma*, 622 F.3d at 806.

Before concluding, we observe that Helmueller should not have been permitted to litigate this appeal *in forma pauperis*. A district court concluded, on July 23, 2023, that Helmueller struck out under the Prison Litigation Reform Act. *Freeman v. Kastens*, No.

23-CV-493-JDP, 2023 WL 4824772, at *1 (W.D. Wis. July 27, 2023). He brought that case as "Joeseph Helmueller Sovereign Freeman." The strikes the court listed in that case were incurred before the notice of appeal in this case and appear valid. Because we learned of this after briefing was complete, we exercise our discretion to review the merits of the district court's decision. *Isby v. Brown*, 856 F.3d 508, 520 (7th Cir. 2017). But we revoke his in forma pauperis status; he must pay the filing and docket fees for this appeal. *See Moran v. Sondalle*, 218 F.3d 647, 651 (7th Cir. 2000). And because litigating under different names allowed the plaintiff to escape a timely tally of his strikes, we make the following record:

Including the appealed order and this appeal, the appellant, Wisconsin prisoner # 607689 (under the surname Helmueller or Freeman) has, on three or more prior occasions, brought an action or appeal that was dismissed because it is frivolous or fails to state a claim upon which relief can be granted. *See, e.g.*, *Helmueller v. Officers, Judges, and/or Responsible Officials*, 22-cv-41-bbc, (W.D. Wis. July 1, 2022); *Helmueller v. Hallett*, 22-cv-463-jdp (W.D. Wis. Oct. 25, 2022); *Helmueller v. Wilson*, No. 23-cv-297, 2023 WL 3322332, at *1 (E.D. Wis. May 9, 2023); *Freeman v. Kastens*, No. 23-CV-373-JDP, 2023 WL 4131534, at *1 (W.D. Wis. June 22, 2023). Therefore, under 28 U.S.C. § 1915(g), he cannot proceed in forma pauperis in any action under the PLRA unless his allegations show that he is in imminent danger of serious physical injury.

AFFIRMED; IFP STATUS REVOKED