NONPRECEDENTIAL DISPOSITION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 February 16, 2024*
Decided February 26, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-2392

DEVONERE JOHNSON,
Plaintiff-Appellant,

v.

PLS FINANCIAL SOLUTIONS OF WISCONSIN, INC., et al.,
Defendants-Appellees.

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

No. 22-cv-77-wmc

William M. Conley,
Judge.

O R D E R

Devonere Johnson brought this suit after the defendants purportedly refused to cash his checks because of his race. *See* 42 U.S.C. § 1981. The district court entered

* 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).

summary judgment for the defendants. Because the court correctly ruled that Johnson did not produce sufficient evidence to reach a jury, we affirm.

We recite the facts and draw all inferences in Johnson's favor. *Singmuongthong v. Bowen*, 77 F.4th 503, 510 (7th Cir. 2023). This suit arose from Johnson's attempts, on July 30, 2021, to cash checks at two locations of PLS Financial Solutions of Wisconsin, Inc. PLS provides financial services, including check-cashing services. To prevent cashing bad checks, PLS has policies that require employees—before cashing a check—to examine the check (e.g., by verifying the signature), review any notes about the customer's recent transactions, and ask the customer questions to determine the check's origin. Employees are expected to ask additional questions about the check's origin if a customer wants to cash a check that is large or was issued by an employer. Employees at times must seek a manager's review before cashing a check.

Johnson, who is African American, first went to a PLS branch on Madison's northeast side and attempted to cash two settlement checks he received from a construction company—one for $10,750 and one for $6,809.65. Employees at this location inquired about the checks; Johnson later characterized their questions as part of "normal procedure." An employee told Johnson that he could not cash the checks, so Johnson went to a different PLS location.

Johnson then attempted to cash the smaller of the two checks at the company's branch on Madison's south side. An employee again asked Johnson questions; Johnson later described the questions as "peculiar," but the questions he identified generally concerned the check's origin. Johnson answered the queries and PLS got assurance (presumably from the check issuer) that the check was real. Despite this, employees thought the check required review by a manager and held onto it for approval.

Around this time, Johnson began using his cellphone to make a video recording of the encounter. On the recording, he can be overheard repeatedly asking for his check. An employee then said that she had to wait for her boss to decide whether to cash the check; some time later, she explained that her boss told her not to cash "these checks." Another employee eventually returned the check to Johnson, and they argued about calling the police. The audio from the recording is unclear, but the second employee apparently said that the checks could not be cashed. The recording also captures the voice of another customer; though the customer is not visible on the recording, Johnson asserts that he was white and was able to cash a check. Johnson eventually left the store and cashed both of his checks elsewhere.

Johnson then brought this suit, asserting that the defendants refused to cash his checks because of his race. The district court eventually granted the defendants' motion for summary judgment, in part based on its conclusion that Johnson had not produced evidence of racial discrimination. The court acknowledged that Johnson was asked questions he regarded as "peculiar," but pointed out that these were the sort of inquiries that PLS employees were supposed to ask of all customers. The court also determined that Johnson had not identified evidence that he was treated differently from customers in similar circumstances, such that a jury could infer racial animus.

Days after filing his notice of appeal, Johnson filed multiple post-judgment motions, arguing, among other things, that the judge (1) improperly entered judgment before discovery closed and (2) was biased against him and should have recused himself. The court denied these motions.

On appeal, Johnson challenges the district court's conclusion that he did not present evidence that the defendants discriminated against him based on race. He argues, specifically, that the court omitted key facts, such as the recorded statement of the south side branch's employee that she had been told not to cash the checks.

But even if we account for that statement, Johnson has not satisfied his burden to stave off summary judgment for the defendants. To succeed on his claim under § 1981, he needed to show that race was the "but-for" cause of the defendants' actions. *Comcast Corp. v. Nat'l Ass'n of African American-Owned Media*, 140 S. Ct. 1009, 1019 (2020). Johnson has not produced evidence from which a reasonable factfinder could infer such causality: Nothing in the employee's statement suggests that PLS refused to cash Johnson's checks because of his race.

Johnson also argues that the court should not have granted summary judgment because discovery was ongoing. But the federal rules do not require that discovery be complete before summary judgment can be granted. FED. R. CIV. P. 56; *see Smith v. OSF HealthCare Sys.*, 933 F.3d 859, 864 (7th Cir. 2019). If a party—including a pro se litigant—needs additional discovery to respond to a motion for summary judgment, he may request more time under Rule 56(d), explaining by affidavit or declaration specific reasons why he cannot present essential evidence at the time. *See* FED. R. CIV. P. 56(d); *Stevo v. Frasor*, 662 F.3d 880, 886 (7th Cir. 2011). Johnson did not seek such relief.

Finally, Johnson maintains, based largely on the judge's rulings, that the judge should have recused himself due to bias. But adverse rulings standing alone are not evidence of bias, *see Thomas v. Dart*, 39 F.4th 835, 844 (7th Cir. 2022) (citing *Liteky v. United States*, 510 U.S. 540, 555 (1994)), and there is no evidence of any disqualifying

conflict of interest or other ground for recusal under 28 U.S.C. § 144 or 28 U.S.C. § 455(a).

We have considered Johnson's remaining arguments; none merits discussion.

AFFIRMED