

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Suzanne B. Conlon	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	10 C 8092	DATE	1/21/2011
CASE TITLE	JUYRONE McCLENDON v. AURORA PUBLIC LIBRARY		

DOCKET ENTRY TEXT

On its own motion, the court dismisses the complaint without prejudice. *See* 28 U.S.C. § 1915(e)(2). Plaintiff's motions to proceed *in forma pauperis* and for appointment of counsel [3, 4] are denied.



■ [For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

Juyrone McClendon filed a complaint *pro se* against the Aurora Public Library, alleging violations of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.*, and 42 U.S.C. § 1983. He alleges he was suspended from the library for 90 days without cause. According to the complaint, on November 11, 2010, a library staff member named Alex agreed to help McClendon download a CD dictionary onto his laptop. After speaking, Alex disappeared. McClendon walked to the back of the library and saw Alex, a security guard, and the library coordinator having a conversation. McClendon began to leave the library. As he was leaving, the library coordinator yelled to him that if he spoke to anyone else in the library, he would be suspended for 90 days. McClendon ignored her and left the library. The next day, the library coordinator decided over the phone to suspend McClendon.

To state a claim under the ADA, McClendon must allege sufficient facts to plausibly suggest he was denied the benefits of the public library because of his disability. 42 U.S.C. § 12132; *Swanson v. Citibank, N.A.*, 614 F.3d 400, 403-05 (7th Cir. 2010). McClendon asserts he is on disability and has a mental disorder. Assuming his mental disorder qualifies as a disability under the ADA, *see* 42 U.S.C. § 12102, McClendon alleges no nexus between his mental disorder and the suspension decision. Without more, the court cannot reasonably infer McClendon’s disability was behind the suspension. *See Gillard v. Proven Methods Seminars, LLC*, 388 F. App’x 549, 550 (7th Cir. 2010) (unpublished order).

McClendon also asserts a civil rights violation, presumably a § 1983 claim that he was suspended from the library without procedural due process. A threshold inquiry is whether McClendon has a protected property interest in the use of the library. *Brown v. City of Mich. City*, 462 F.3d 720, 728-29 (7th Cir. 2006). To have a property interest, McClendon must have a legitimate claim of entitlement to use the library based on state law or another independent source. *Id.* at 728. “A property interest of constitutional magnitude exists only when

Courtroom Deputy
Initials:

AIR

STATEMENT

the state's discretion is clearly limited such that the plaintiff cannot be denied the interest unless specific conditions are met." *Id.* at 729 (internal quotation marks omitted).

Illinois law does not grant McClendon a property interest in using the library. The law grants residents and taxpayers of a district the use of the district library "subject to reasonable rules and regulations the board adopts to render the use of the library of the greatest benefit to the greatest number of those residents and taxpayers." 75 ILCS 16/1-10. Thus, McClendon's right to use the library is limited, and Illinois grants discretion to the board to define those limits. Illinois law also authorizes the board to "exclude from the use of the library any person who willfully violates an ordinance or regulation prescribed by the board." 75 ILCS 16/30-55.55. However, this provision relates to the power of the board, not to the rights of the users. Finally, the Aurora Library Board of Directors has not created a property interest by promulgating a code of conduct. *See* Code of Conduct, <http://www2.youseemore.com/aurorapl/about.asp?loc=46> (last visited Jan. 20, 2011). The standards governing library patrons' behavior are too indeterminate to clearly limit library staff discretion, prohibiting, for example, "[b]ehavior which may disturb others or interfere with their rights to use library facilities." *Id.* Library staff must have discretion to regulate conduct in the library.

