

MEMORANDUM DECISION

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APPELLANT PRO SE

Jason E. Morales
Carlisle, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Abigail R. Recker
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jason Morales,
Appellant-Plaintiff,

v.

Craig Grage, Guy Rosebery, and
Rebecca Bennett,
Appellees-Defendants

May 31, 2023

Court of Appeals Case No.
22A-PL-1917

Appeal from the Hendricks
Superior Court

The Honorable Mark A. Smith,
Judge

Trial Court Cause No.
32D04-2204-PL-51

Memorandum Decision by Judge Mathias
Judges Bradford and Pyle concur.

Mathias, Judge.

[1] Jason Morales appeals the Hendricks Superior Court’s order dismissing his complaint in which he alleged violations of his rights under the Indiana and federal Religious Freedom Restoration Acts (“RFRA”) while he was incarcerated. Morales presents a single issue for our review, namely, whether the trial court erred when it dismissed his complaint.

[2] We affirm in part, reverse in part, and remand for further proceedings.

Facts and Procedural History

[3] Morales is currently incarcerated in the Wabash Valley Correctional Facility (“WVCF”). In April and May 2020, Morales spent forty-five days in the Department of Correction’s Reception Diagnostic Center (“RDC”) in Plainfield. While he was placed in the RDC, Morales, who is a practicing Muslim, was denied Halal food at mealtimes, and he was prohibited from wearing a kufi head covering or keeping a personal Quran. Morales submitted written grievances to Craig Grage, the Warden of the RDC, as well as to Rebecca Bennett, the Deputy Warden, and Guy Rosebery, an Administrative Assistant. Morales did not receive responses to his grievances.

[4] After Morales was transferred to WVCF, he filed a complaint in the Hendricks Superior Court against Grage, Bennett, and Rosebery (collectively, “the Defendants”), both individually and in their official capacities. Morales alleged that they had violated his rights to practice Islam under the Indiana and federal RFRA statutes when he was denied Halal food and prohibited from wearing a kufi or keeping a Quran. In particular, Morales claimed that

[a]ll named Defendants violated this Plaintiff's rights protected by the Indiana Religious Freedom Restoration Act ("RFRA") ([Ind. Code § 34-13-9-1 to 11](#)) by:

- seizing this Plaintiff's religious head-covering (kufi)—thus preventing the Plaintiff from being able to exercise my sincerely held Islamic religious beliefs of covering my head at all times when amongst other people,
- seizing this Plaintiff's Qur'an—thus preventing the Plaintiff from being able to exercise my sincerely held Islamic religious beliefs of being able to read/recite the Qur'an during the holy month of Ramadan,
- by refusing to provide this Plaintiff with Halal/Kosher food—thus preventing this Plaintiff from being able to exercise my sincerely held Islamic religious beliefs of consuming only Islamically prescribed food,

while incarcerated at the [RDC], thus substantially burdening/restricting this Plaintiff's exercise of the religion of orthodox Islam.

Appellant's App. Vol. 2, p. 17. Morales sought declaratory and injunctive relief as well as compensatory and punitive damages.

- [5] The Defendants moved the trial court to summarily dismiss Morales's complaint under the Frivolous Claim Law, [Indiana Code section 34-58-1-2\(a\)](#). The Defendants stated that Morales did not allege that any of them were "personally involved in any violation of his rights" and did not, therefore, state a claim for relief. Appellant's App. Vol. 2, p. 46. In addition, the Defendants stated that Indiana's RFRA does not provide for punitive damages. Finally, the

Defendants stated that Morales had asserted a claim under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”)¹ and that they were immune to such a claim. The trial court granted the Defendants’ motion, finding that Morales’s complaint “does not state a claim upon which relief may be granted as to the individual defendants, and/or seeks monetary and other relief from the individual defendants who are immune from liability for the relief requested.” *Id.* at 50. This appeal ensued.

Discussion and Decision

[6] [Indiana Code Section 34-58-1-2](#) provides in relevant part:

(a) A court shall review a complaint or petition filed by an offender and shall determine if the claim may proceed. A claim may not proceed if the court determines that the claim:

(1) is frivolous;

(2) is not a claim upon which relief may be granted;
or

(3) seeks monetary relief from a defendant who is immune from liability for such relief.

[7] As this Court has explained,

[w]e review de novo a trial court’s dismissal of an offender’s complaint under this statute. [Guillen v. R.D.C. Mail Clerk, 922 N.E.2d 121, 122 \(Ind. Ct. App. 2010\)](#). Like the trial court, we

¹ Morales’s complaint does not include any reference to RLUIPA, and Morales maintains, on appeal, that he has made no such claim.

look only to the well-pleaded facts contained in the complaint. *Id.* The statute is akin to a legislative interpretation of [Indiana Trial Rule 12\(B\)\(6\)](#),¹ a rule which has given judges in civil cases the authority “to consider a case in its early stages and, taking everything the plaintiff has alleged as true, determine whether it can proceed.” *Id.* at 122-23 (quoting *Peterson v. Lambert*, 885 N.E.2d 719, 720 (Ind. Ct. App. 2008)).

Reed v. White, 103 N.E.3d 657, 659 (Ind. Ct. App. 2018). We may affirm the trial court’s dismissal on any theory or basis found in the record. *Wheeler v. State*, 180 N.E.3d 305, 308 (Ind. Ct. App. 2021).

[8] Here, the trial court dismissed Morales’s complaint based on subsections (a)(2) and (a)(3) of [Indiana Code section 34-58-1-2](#). The trial court did not find that Morales’s complaint was frivolous. On appeal, Morales contends that the trial court erred when it dismissed his complaint because he alleges that he adequately stated claims for relief under both the federal and Indiana RFRA statutes and because the defendants are not immune from liability. We address each contention in turn.

Federal RFRA Claim

[9] Morales maintains that his complaint states a claim for relief under the federal RFRA. However, the Defendants are correct that the federal RFRA is not applicable to the States. *See City of Boerne v. Flores*, 521 U.S. 507, 536 (1997). Accordingly, the trial court did not err when it dismissed Morales’s claims against State actors under the federal RFRA.

State RFRA Claim

[10] Morales next maintains that his complaint states a claim for relief under Indiana’s RFRA, which provides in relevant part as follows:

(a) Except as provided in subsection (b), a governmental entity may not substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability.

(b) A governmental entity may substantially burden a person’s exercise of religion only if the governmental entity demonstrates that application of the burden to the person:

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

[Ind. Code § 34-13-9-8.](#)

[11] In his complaint, Morales explained that his adherence to Islam requires that he wear a kufi, eat only Halal food, and read from the Quran. He alleged that the Defendants, both in their “individual and official capacities,” violated his rights under Indiana’s RFRA when they seized his kufi and Quran and refused to serve him Halal food at mealtimes. Appellant’s App. Vol. 2, p. 17. Morales argues that these claims are claims upon which relief can be granted for purposes of [Indiana Code Section 34-58-1-2](#).

[12] However, the Defendants contend that Morales’s claims for declaratory and injunctive relief under Indiana’s RFRA fail for lack of standing. And they

contend that his claims for compensatory and punitive damages are also barred. We address each type of relief sought in turn.

Declaratory Judgment and Injunctive Relief

- [13] Standing is a “threshold issue” and a “legal question we review de novo.” *Serbon v. City of East Chicago*, 194 N.E.3d 84, 91 (Ind. 2022) (citations omitted). “Standing ‘determines whether a litigant is entitled to have a court decide the substantive issues of a dispute.’” *Id.* at 92 (quoting *Solarize Indiana, Inc. v. S. Indiana Gas & Elec. Co.*, 182 N.E.3d 212, 216 (Ind. 2022)).
- [14] Here, again, Morales did not file his complaint until he had been transferred out of the RDC, and he did not allege any ongoing or future harm.² It is well settled that “[a] declaratory judgment is not available where the judgment cannot guide and protect the petitioner with regard to some future acts[.]” *Mid-Century Ins. Co. v. Est. of Morris ex rel. Morris*, 966 N.E.2d 681, 688 (Ind. Ct. App. 2012) (citation omitted), *trans. denied*. Likewise, “[i]njunctive relief is not to be used simply to eliminate a possibility of a remote future injury.” *Crossmann Communities, Inc. v. Dean*, 767 N.E.2d 1035, 1042 (Ind. Ct. App. 2002) (citation omitted). Accordingly, Morales does not have standing to bring either claim, and the trial court did not err when it dismissed those claims.

² In his complaint, Morales stated that he “could be returned to the RDC in the future,” but it is well settled that standing cannot be based on the threat of a speculative harm. See *Garau Germano, P.C. v. Robertson*, 133 N.E.3d 161, 170 (Ind. Ct. App. 2019), *trans. denied*.

Compensatory Damages

[15] In his complaint, Morales sought compensatory damages under RFRA for each of the Defendants' alleged violations of his religious rights. The Defendants argue that Morales is not entitled to compensatory damages because he did not allege "any personal involvement on their part in the alleged deprivation of his religious practices." Appellees' Br. at 19. The Defendants allege that "[t]he text of IRFRA—like its federal counterparts RFRA and RLUIPA—imposes a personal involvement requirement when an individual is alleged to have violated the statute." *Id.* at 19. The Defendants concede that this is an issue of first impression for our Courts.

[16] We need not address the issue raised by the Defendants because Morales did allege personal involvement by each of the Defendants in the deprivation of his religious rights. Specifically, Morales alleged that "[a]ll named Defendants" had seized his kufi and his Quran and had denied him Halal food while incarcerated at RDC. Appellant's App. Vol. 2, p. 17. Those allegations are sufficient to state a claim upon which relief may be granted under the Frivolous Claim Law. Further, the Defendants did not argue to the trial court and do not argue on appeal that they are immune from liability under Indiana's RFRA.³ Accordingly, we hold that the trial court erred when it dismissed Morales's claims for compensatory damages under Indiana's RFRA. And we reverse for

³ The trial court did not find that Morales's complaint was frivolous.

further proceedings on those claims. We note, however, that the Defendants are potentially liable to Morales only in their official capacities and not in their individual capacities, and we therefore affirm the trial court's judgment for the Defendants in their individual capacities. *See I.C. § 34-13-9-8.*

Punitive Damages

- [17] Finally, Morales contends that he is entitled to punitive damages under Indiana's RFRA. But Morales is incorrect. Nothing in our RFRA provides for punitive damages, and the trial court did not err when it dismissed those claims. *See I.C. § 34-13-9-10* (providing for declaratory relief, injunctive relief, and compensatory damages).

Conclusion

- [18] For all these reasons, the trial court did not err when it dismissed Morales's claims under the federal RFRA statute. Neither did the trial court err when it dismissed Morales's claims seeking declaratory and injunctive relief for past alleged harms and his claims seeking punitive damages. However, we hold that the trial court erred when it dismissed Morales's claims against the Defendants in their official capacities seeking compensatory damages for the alleged RFRA violations.

- [19] Affirmed in part, reversed in part, and remanded for further proceedings.

Bradford, J., and Pyle, J., concur.