NONPRECEDENTIAL DISPOSITION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 October 15, 2024*
Decided October 18, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-1715

JOSEPH DeLAROSA,
Plaintiff-Appellant,

v.

VILLAGE OF ROMEOVILLE, *et al.*,
Defendants-Appellees.

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

No. 23 CV 7049

Jeremy C. Daniel,
Judge.

O R D E R

Joseph DeLarosa appeals the judgment dismissing his civil rights suit against the Village of Romeoville and several of its officers. *See* 42 U.S.C. § 1983. The district court dismissed the complaint because DeLarosa failed to state a claim. 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).

DeLarosa maintains that the defendant officers violated his rights under federal and state law by searching his home without probable cause, arresting him, and then detaining him in jail. The following narrative draws upon facts from documents that DeLarosa attached to his amended complaint—documents that may be considered when ruling on a motion to dismiss. *See Williamson v. Curran*, 714 F.3d 432, 436 (7th Cir. 2013). The search stemmed from reports made in 2016 by two construction companies to Romeoville police that some of their equipment, including four welders, had been stolen. More than two months later, one of the companies' employees notified the police that the stolen welders were being advertised for sale on Facebook. An investigation led the officers to DeLarosa's home. While there, an officer peered through a window of DeLarosa's detached garage and saw an allegedly stolen welder. Based on this observation, the officers obtained a warrant and executed a search of the property. They found allegedly stolen equipment, including the welders. DeLarosa eventually was charged in state court with three counts of theft.

The charges did not stick. In June 2021, the state trial court granted DeLarosa's motion to suppress, finding that the search warrant was tainted by an unlawful search because the officer's garage-window observations occurred within the curtilage of DeLarosa's home. The state then dismissed the charges.

Two years later, in June 2023, DeLarosa filed this suit. In a wide-ranging § 1983 complaint, DeLarosa asserted 22 counts under the Fourth Amendment, Fourteenth Amendment, and Illinois state law.

The district court dismissed the case. The court concluded that most of DeLarosa's claims were time-barred: Some claims were barred by the two-year statute of limitations for unreasonable searches and seizures that accrued at the time the search and seizure occurred (counts II, III, and V), *see Neita v. City of Chi.*, 830 F.3d 494, 498 (7th Cir. 2016) (citing 735 Ill. Comp. Stat. § 5/13-202), and other claims were barred under the one-year statute of limitations for claims brought against local governments and their agents under the Illinois Local Governmental and Governmental Employees Tort Immunity Act (counts VII, VIII, IX, X, XI, XII, XV, XVI, XVII, XIX, XX, and XXII), 745 Ill. Comp. Stat. Ann. § 10/8-101. The court also dismissed DeLarosa's Fourteenth Amendment claims because the rights asserted—substantive due process violations—were grounded in the Fourth Amendment (counts XIII, XIV, and XXI). And the court determined that DeLarosa's Fourth Amendment claims related to malicious prosecution (counts I, IV, and VI) were implausible based on documents he attached to the complaint showing that the officers had probable cause to search his home. Finally, the

court dismissed DeLarosa's conspiracy claim (count XVIII) for failure to establish an underlying constitutional violation.

We review the district court's dismissal de novo. *Lax v. Mayorkas*, 20 F.4th 1178, 1181 (7th Cir. 2021). To survive a motion to dismiss, a plaintiff must plead facts sufficient to show that a claim for relief is plausible on its face. *Gociman v. Loyola Univ. of Chicago*, 41 F.4th 873, 881 (7th Cir. 2022). Pro se litigants are afforded a liberal reading of the complaint. *Smith v. Dart*, 803 F.3d 304, 309 (7th Cir. 2015) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam)).

Turning first to the time-barred claims, DeLarosa maintains that his Fourth Amendment claims (counts I, II, III, IV, V and VI) were timely because he was barred under *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994), from bringing these claims until his criminal case was dismissed. DeLarosa is correct that *Heck* applies to his malicious prosecution claims (counts I, IV, and VI), *McDonough v. Smith*, 588 U.S. 109, 116–117 (2019), and that those claims are therefore timely. But *Heck* does not apply to an action that would impugn an anticipated future conviction. *See Wallace v. Kato*, 549 U.S. 384, 393 (2007). DeLarosa's claims for unreasonable search and seizure (counts II, III, and V) accrued when the search and seizure were conducted, *Neita*, 830 F.3d at 498, and the subsequent prosecution did not delay accrual, *see Evans v. Poskon*, 603 F.3d 362, 363 (7th Cir. 2010). In Illinois, Fourth Amendment claims for unreasonable search and seizure are governed by the two-year statute of limitations for personal injury claims. *See Neita*, 830 F.3d at 498 (7th Cir. 2016) (citing 735 Ill. Comp. Stat. § 5/13-202). As the district court rightly concluded, DeLarosa's Fourth Amendment claims were untimely because he did not file his complaint until June 2023—almost six and a half years after his January 2017 search and arrest.

As for his state law claims (counts VII, VIII, IX X, XI, XII, XV, XVI, XVII, XIX, XX, and XXII), DeLarosa asserts that these are governed by the two-year statute of limitations that applies to personal injury claims. *See* 735 Ill. Comp. Stat. § 5/13-202. But § 5/13-202 is not the applicable statute. As the district court explained, his state law claims were governed by the one-year statute of limitations that applies to claims against local governments and governmental employees. *See Williams v. Lampe*, 399 F.3d 867, 870 (7th Cir. 2005) (citing 745 Ill. Comp. Stat. Ann. § 10/8-101). The one-year limitation applies even to state-law claims that are joined with § 1983 claims governed by a two-year statute of limitations. *Williams*, 399 F.3d at 870. DeLarosa's criminal charges were dismissed on June 21, 2021 (the latest possible date for his claims to accrue), and he did not initiate his civil case until June 21, 2023 – one year too late.

Next, Delarosa argues that the court improperly construed two of his Fourteenth Amendment claims (counts XIV and XXI) as Fourth Amendment claims. (He concedes in his reply brief that the court properly dismissed his third claim brought under the Fourteenth Amendment (count XIII).) He argues that count XIV, which alleges that the officers took equipment from his home, is a Fourteenth Amendment claim because the officers deprived him of his property without due process. But DeLarosa's claim that police interfered with his property interest falls squarely under the Fourth Amendment, *see Dix v. Edelman Fin. Servs., LLC*, 978 F.3d 507, 513 (7th Cir. 2020), and substantive due process claims cannot be maintained where a specific constitutional provision protects the right at issue, *Alexander v. McKinney*, 692 F.3d 553, 558 (7th Cir. 2012).

DeLarosa also argues that the court misunderstood count XXI as a fabrication-based wrongful detention claim rather than a § 1983 conspiracy claim. But in count XVIII, he already asserted a § 1983 civil conspiracy claim, which the district court properly dismissed because he had failed to plausibly allege an underlying constitutional violation. *See Archer v. Chisholm*, 870 F.3d 603, 620 (7th Cir. 2017).

We return to DeLarosa's *Heck*-barred malicious prosecution claims under the Fourth Amendment (I, IV, and VI). To succeed on a Fourth Amendment malicious prosecution theory, he must show that the prosecution was initiated without probable cause and ended without conviction. *See Thompson v. Clark*, 594 U.S. 36, 49 (2022). He argues, first, that the district court erred by relying on "improperly admitted" court documents that defendants had attached as exhibits to their motion to dismiss.

But this argument misapprehends the basis for the court's conclusion. In dismissing DeLarosa's malicious prosecution claims, the court relied only on the transcripts and records that DeLarosa attached to his amended complaint. This reliance was proper, as courts may consider documents attached or referred to in the complaint when ruling on a motion to dismiss. *Williamson*, 714 F.3d at 436.

DeLarosa relatedly argues that the state court's decision to suppress the evidence in his criminal case proves that probable cause was lacking because the officers (1) must have manufactured the statements used to obtain their search warrant and (2) are not credible witnesses. But this argument also misconstrues the state court's decision. The state court found that the officers did have probable cause to search DeLarosa's home based on the officers' attestations that—while investigating a report of stolen welders—an officer viewed an allegedly stolen welder in his garage. Moreover, the exclusionary rule does not apply in § 1983 suits against police officers. *Martin v. Marinez*, 934 F.3d

594, 599 (7th Cir. 2019). In DeLarosa's case, then, the officer's search in violation of the Fourth Amendment did not negate the probable cause, thereby undermining any claim of malicious prosecution. *Id.*

We have considered DeLarosa's remaining arguments, but they are too undeveloped to warrant discussion. See Fed. R. App. P. 28(a)(8); *Anderson v. Hardman*, 241 F.3d 544, 545–46 (7th Cir. 2001).

AFFIRMED