NONPRECEDENTIAL DISPOSITION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 22, 2024*
Decided November 12, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1303

TONY CHANEY,
Plaintiff-Appellant,

v.

CHICAGO HOUSING AUTHORITY,
Defendant-Appellee.

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

No. 23 C 3279

Harry D. Leinenweber,
Judge.

O R D E R

Tony Chaney sued the city agency that administered his housing subsidy for failing to provide him a hearing after he was evicted from his apartment. The district

* 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).

court dismissed the case because Chaney failed to plead that the agency was directly responsible for any wrong. We affirm.

We accept the well-pleaded facts in Chaney's amended complaint as true and draw all inferences in his favor. *Thomas v. Neenah Joint Sch. Dist.*, 74 F.4th 521, 522 (7th Cir. 2023). In 2022, Chaney benefitted from subsidized housing through a program administered by the Chicago Housing Authority ("CHA"). Under this program, which is funded by the United States Department of Housing and Urban Development ("HUD"), CHA provides vouchers that subsidize beneficiaries' rent payments.

Using CHA subsidies, Chaney leased an apartment on Chicago's North Side. In July 2022, his landlord's property manager issued an eviction notice to him. Believing that CHA had terminated his subsidy, Chaney filed a request with CHA for an informal hearing concerning benefits termination. CHA has a policy of granting beneficiaries an informal hearing whenever it intends to terminate a subsidy, CHI. HOUS. AUTH., HOUS. CHOICE VOUCHER PROGRAM ADMIN. PLAN § 12-II.D, as required by federal regulations, *e.g.*, 42 U.S.C. § 1437d(k); 24 C.F.R. § 966.52. CHA initially approved Chaney's request for a hearing, but later a CHA employee called Chaney to tell him that the request had been denied.

In May 2023, Chaney sued CHA under 42 U.S.C. § 1983. The district court screened the complaint and dismissed it for failing to state a claim. 28 U.S.C. § 1915(e)(2). Chaney then amended the complaint to assert violations of, as relevant here, the Fourteenth Amendment's Due Process Clause and the City of Chicago's Residential Landlord and Tenant Ordinance, CHI., ILL., CODE ch. 5-12 (1986).

The district court dismissed the amended complaint for failing to state a claim and entered judgment against Chaney.[1] With respect to Chaney's claim under the City's Residential Landlord and Tenance Ordinance, the court explained that § 1983 does not afford relief for violations of state law. As for his due process claim, the court concluded that he failed to allege that any deprivation of his right to a hearing under the voucher program was caused by the municipal agency's policy, custom, or widespread practice—the first requirement of a claim under *Monell v. Department of*

[1] The court's order states that the dismissal was "without prejudice," a disposition that may deprive us of appellate jurisdiction. *See Hoskins v. Poelstra*, 320 F.3d 761, 763 (7th Cir. 2003). But the court also entered a judgment under Rule 58 of the Federal Rules of Civil Procedure, from which we conclude that the district court was finished with the case and its order final. *See* FED. R. CIV. P. 58(a); *Thornton v. M7 Aerospace LP*, 796 F.3d 757, 763 (7th Cir. 2015).

Social Services, 436 U.S. 658, 690, 694 (1978). Because Chaney could not state a claim of municipal liability under *Monell*, the court saw no need to assess his due process claim. *See Orozco v. Dart*, 64 F.4th 806, 827 (7th Cir. 2023).

On appeal, Chaney challenges only the district court's decision to dismiss his due process claim for failing to meet *Monell*'s pleading requirements. But the court's decision was correct. Even if Chaney had been denied due process, *Monell* shields the agency from liability unless the harm was caused by a policy or custom that demonstrates municipal fault. *Id*. at 823–24 ("[I]t is not sufficient for [plaintiff] to merely demonstrate a valid due process violation. He must go a step further and show the municipality itself is liable for the harm he suffered."). A "policy or custom" includes an express policy that created the deprivation, a practice so widespread that it effectively has the force of a policy, or the decision of a final policymaker that causes the constitutional injury. *See Thomas v. Neenah Joint Sch. Dist.*, 74 F.4th 521, 524 (7th Cir. 2023). Here, Chaney's complaint failed to sufficiently allege actions on the part of CHA that would plausibly support the existence of a municipal policy that deprived him of a hearing required by the Fourteenth Amendment. Chaney's reference to a single incident in which CHA failed to provide him an informal hearing is not enough to allege a policy or custom under *Monell.*

We have considered Chaney's remaining arguments, and none have merit.[2]

AFFIRMED

[2] The dissent would remand to allow Chaney to seek leave amend his complaint. We note that Chaney did not accept the district court's invitation post-judgment to seek leave to amend, *see, e.g.*, FED R. CIV. P. 15(a)(2); *Crestview Vill. Apartments v. U.S. Dep't of Hous. & Urb. Dev.*, 383 F.3d 552, 557–58 (7th Cir. 2004), nor did he move to modify the judgment, *see, e.g.*, FED. R. CIV. P. 59(e), 60(b); *Runnion ex rel. Runnion v. Girl Scouts of Greater Chicago & Nw. Indiana*, 786 F.3d 510, 521 (7th Cir. 2015). Even on appeal, Chaney does not suggest any desire to amend his complaint. The dissent, in effect, proposes to grant Chaney a form of relief he has not requested. It is not our duty to devise a party's litigation strategy and then grant the relief that allows him to pursue it. *See Kiebala v. Boris*, 928 F.3d 680, 684–85 (7th Cir. 2019).

JACKSON-AKIWUMI, *Circuit Judge,* dissenting. I agree with the majority that Chaney's complaint fails to meet *Monell*'s pleading requirements. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). However, given the mixed signals the district court gave to Chaney, a pro se plaintiff, and his continued efforts to pursue his claims in district court, I believe the better course of action would be to remand. Although the majority is correct that *Thornton v. M7 Aerospace LP*, 796 F.3d 757, 763-64 (7th Cir. 2015), holds that a Rule 58 judgment signals the finality necessary for an appeal, that case did not grapple with the mixed signals at issue here.

The chronology of the case docket shows the mixed signals Chaney received about whether the district court was finished with the case and its order was final. On January 23, 2024, the court dismissed Chaney's case without prejudice and entered judgment under Federal Rule of Civil Procedure 58. About two weeks later, on February 6, Chaney filed two motions. The first motion sought attorney representation. The second motion, although it acknowledged "the court's decision to render judgment" and incorrectly cited Federal Rule of Appellate Procedure 40(a)(1), sought an extension to file a motion and supporting memorandum "for a rehearing of plaintiff's complaint." On February 8, the court denied Chaney appointed counsel but invited him to seek leave to file an amended complaint, despite its earlier Rule 58 judgment, which it did not reference.

The majority contends that Chaney did not accept the district court's invitation to seek leave to amend or suggest any desire to do so. *See ante* at 3 n.2. But the court's invitation came *after* the court had already entered a Rule 58 judgment. That Rule 58 judgment was issued on January 23, so if the judgment truly was final, Chaney had only a couple of weeks left before losing his appeal rights. We have no way of knowing if Chaney filed this appeal rather than accepting the court's invitation to amend his complaint in order to preserve his appeal rights.

Moreover, Chaney did continue to advance his claims before the district court after entry of the Rule 58 judgment. Sure, he did not identify the correct rule he needed to use to overcome the court's Rule 58 judgment (that is, Rule 59(e) or Rule 60(b)), but he asked to file a memorandum "for a rehearing of plaintiff's complaint." *See Crestview Vill. Apartments v. U.S. Dep't of Hous. & Urb. Dev.*, 383 F.3d 552, 557–58 (7th Cir. 2004); *Runnion ex rel. Runnion v. Girl Scouts of Greater Chicago & Nw. Indiana*, 786 F.3d 510, 521 (7th Cir. 2015).

For these reasons, I would remand the case, thereby allowing Chaney, should he choose to do so, to accept the district court's invitation to seek leave to amend his complaint.