

NONPRECEDENTIAL DISPOSITION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 March 17, 2025*

Decided March 18, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-2049

NIKITA BIDDLE and CHIQUITA
BIDDLE,
Plaintiffs-Appellants,

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

v.

No. 21 C 1793

CITY OF CHICAGO, et al.,
Defendants-Appellees.

Jorge L. Alonso,
Judge.

ORDER

Nikita and Chiquita Biddle appeal the dismissal of their civil rights suit alleging sexual harassment, false arrest, and excessive force. *See* 42 U.S.C. § 1983. Nikita has not prosecuted her appeal, so we dismiss it. And the district court correctly dismissed

* 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).

Chiquita's case because her latest proposed amended complaint was untimely and she had abandoned any earlier claims; we thus affirm that dismissal.

We recount the facts as alleged in the complaint and accept the well-pleaded allegations as true. *See Esco v. City of Chicago*, 107 F.4th 673, 678 (7th Cir. 2024). This suit stems from an incident that occurred at a McDonald's restaurant in Chicago on St. Patrick's Day of 2019. According to the complaint, Nikita attempted to redeem a coupon, but a McDonald's employee refused to accept it, asked Nikita to leave, and sexually harassed her. A security officer then physically clashed with Nikita. Police officers arrived shortly later and arrested Nikita and her sister Chiquita.

Two years later, the Biddles sued McDonald's Corporation, "Unknown McDonald's Employees," the City of Chicago, and "Unknown Police Officers," alleging that they violated the Biddles' civil rights during the encounter. The City defendants and McDonald's sought dismissal for failure to state a claim. The Biddles, represented by counsel, did not oppose the defendants' arguments. Instead, in January 2024—nearly 5 years after the events—they sought leave to amend their complaint under Rule 15 of the Federal Rules of Civil Procedure by adding new parties. (The Biddles had previously amended their complaint in August 2023.) The Biddles did not identify the parties, request discovery to identify the parties, or explain why the court should grant the motion. The defendants replied that the court should reject any proposed amendment as untimely and not subject to tolling.

The district court granted the defendants' motions to dismiss. It ruled that the Biddles' proposed amendment did not meet the requirements of Rule 15(c) for the amendment to relate back to the initial complaint. The court explained that because the Biddles sought to file their latest amended complaint in January 2024—well after the applicable two-year statute of limitations period had expired—the amendment would be futile. The court also ruled that, by not otherwise contesting the motions to dismiss, the Biddles had forfeited their claims against the City defendants and McDonald's.

Chiquita, who is now pro se, filed an appeal on behalf of herself and Nikita. Because Chiquita—a non-attorney—cannot represent anyone other than herself, we ordered Nikita to file a motion to adopt the opening brief. She has not done so. We thus dismiss her from this appeal. *See Georgakis v. Ill. State Univ.*, 722 F.3d 1075, 1077 (7th Cir. 2013) ("A nonlawyer can't handle a case on behalf of anyone except himself.").

Chiquita raises two unpersuasive arguments on appeal. She first argues that the district court erred by blaming her for her attorney's error of failing to name a proposed party in the amended complaint. In Chiquita's view, the district court should not have faulted her for her attorney's failure to comply with Rule 15(c). But it is a basic principle of "our system of representative litigation" that "each party is deemed bound by the acts of [her] lawyer-agent." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 634 (1962). Thus, Chiquita cannot now avoid the consequences of the acts of her attorney. *Id.* at 633–34. Whatever remedy Chiquita might have based on her attorney's alleged negligence, she is not entitled to revive her claims in this litigation. *See Choice Hotels Int'l, Inc. v. Grover*, 792 F.3d 753, 754 (7th Cir. 2015).

Next, Chiquita argues that the district court erred by ruling that her proposed amended complaint—seeking to sue new, unnamed parties—was untimely. She insists that we may consider the amendment timely by relying on her asserted disability and tolling the limitations period until August 2023 (the date of her first amended complaint). This argument, too, is unavailing. In a § 1983 suit filed in federal court in Illinois, the court borrows Illinois' two-year limitations period for personal-injury actions. *Wallace v. Kato*, 549 U.S. 384, 387 (2007); 735 ILCS 5/13-202. The court also borrows the tolling rules from the law of the state of injury. *See Wallace*, 549 U.S. at 394. Under Illinois law, a disability permits tolling only if it prevents a person from being "fully able to manage his or her person or estate." *Parks v. Kownacki*, 737 N.E.2d 287, 295 (Ill. 2000) (quoting 5 ILCS 70/1.06). Chiquita contends that her mental illnesses and homelessness made it difficult for her to sue. But "[t]he inability to pursue a legal remedy does not, standing alone, fall into any recognized category of legal disability." *Id.*

In any event, Chiquita did not develop in the district court an argument that her mental illness rendered her unable to manage herself or her estate, as she must if she seeks to toll the limitations period. Of course, a plaintiff need not anticipate an affirmative defense like the statute of limitations or attempt to rebut it in her complaint. *Sabo v. Erickson*, — F.4th —, —, 2025 WL 354484, at *2 (7th Cir. Jan. 31, 2025) (en banc). But "[w]e have repeatedly held that a party opposing a motion in the district court must inform the court of the factual and legal reasons why the motion should not be entered, and if it fails to do so it cannot then raise those arguments on appeal." *O'Gorman v. City of Chicago*, 777 F.3d 885, 890 (7th Cir. 2015) (citations omitted). The defendants argued in their motions to dismiss that the statute of limitations had expired on Chiquita's proposed amended complaint and that she could not invoke tolling to prolong the two-year period to sue any new defendants. At that point, Chiquita had to

assert facts and legal reasons to counter the defendants' position. *Id.* Because she did not do so then, she may not do so for the first time now. *See id.*

AFFIRMED