

NONPRECEDENTIAL DISPOSITION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 April 15, 2025*

Decided April 16, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2846

BRANNEN MARCURE,
Plaintiff-Appellant,

Appeal from the United States District
Court for the Central District of Illinois.

v.

No. 18-cv-3137

TYLER LYNN, et al.,
Defendants-Appellees.

Colleen R. Lawless,
Judge.

ORDER

Brannen Marcure appeals the dismissal of his federal complaint against four officers of the Springfield (Illinois) Police Department for allegedly violating his constitutional rights. We affirm the judgment because Marcure failed to state a claim.

* 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).

This case has had a long life, including an appeal in which we reversed the dismissal of Marcure’s claims against several police officers. *See Marcure v. Lynn*, 992 F.3d 625 (7th Cir. 2021). It now returns to us after the dismissal of the third amended complaint, in which Marcure asserts that the four officers violated his Fourth Amendment rights by searching his house without a warrant or valid consent and his Fourteenth Amendment rights by depriving him of his liberty without due process. *See* 42 U.S.C. § 1983.

We accept the facts as stated in Marcure’s complaint as true and draw all reasonable inferences in his favor. *See Hess v. Garcia*, 72 F.4th 753, 756–57 (7th Cir. 2023). On July 23, 2016, four police officers arrived at Marcure’s home in response to reports of a domestic disturbance and a fired gunshot. They found Marcure in his front yard; they placed him in handcuffs, and one officer asked Marcure for consent to search his house. Marcure agreed, and officers discovered a gun during the search. An officer then read Marcure his *Miranda* rights but promised that Marcure would not be charged. (The district court and the defendants say that Marcure received the warnings before the search, but we interpret the third amended complaint differently.) Marcure was taken to jail, but he was never convicted of a crime based on these events.

The defendants moved to dismiss the operative complaint, and the district court granted the motion. The court concluded that Marcure did not state a claim under the Fourth Amendment (for illegal search or failure to protect) because he consented to the search of his house and alleged no facts permitting a reasonable inference that his consent was coerced. Marcure also failed to state a claim that the officers violated his due process rights, the court explained, because Marcure was not convicted of any crime related to the officers’ actions. Even if analyzed under the Equal Protection Clause, the court continued, the claim still failed because Marcure did not allege facts suggesting that the officers arbitrarily treated him differently than similarly situated people. We review the dismissal de novo. *Hess*, 72 F.4th at 756–57.

Marcure argues that the district court improperly dismissed his claims, but his arguments are unavailing. First, he did not plausibly allege that the officers searched his house without his valid consent. A warrant is not necessary when a person voluntarily consents to a search, *United States v. Sandoval-Vasquez*, 435 F.3d 739, 744 (7th Cir. 2006), and the facts here do not suggest that Marcure’s consent to search was not voluntary. He consented while handcuffed, but that is not enough to render his consent involuntary. *See id.* (voluntary consent after officers “entered the business with a show of force and placed other employees in handcuffs almost immediately”); *United States v.*

Thurman, 889 F.3d 356, 367 (7th Cir. 2018) (consent voluntary although defendant was in custody). Marcure also asserts that an officer coerced his consent by promising him that no charges would be filed, but even if a statement like this can be coercive, the complaint states that the promise occurred “[a]fter the search was finished.” The promise could not have affected his decision to consent. No other allegations could support a reasonable inference that his consent was coerced; thus, he does not state a claim of unlawful search under the Fourth Amendment.

Marcure also did not plausibly allege that the officers violated his rights under the Fourteenth Amendment. Although Marcure is not required to plead legal theories in his complaint, *see Chapman v. Yellow Cab Coop.*, 875 F.3d 846, 848 (7th Cir. 2017), he must provide sufficient facts to state a plausible legal claim, *see Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). He fails to do so.

Marcure’s claim, which appears to be that he was falsely arrested or maliciously prosecuted, cannot proceed under the Due Process Clause because his allegations fall under the sole purview of the Fourth Amendment. *See Thompson v. Clark*, 596 U.S. 36, 42 (2022) (describing Fourth Amendment malicious prosecution claim as a claim “for unreasonable seizure pursuant to legal process”). Here, Marcure’s complaint provides enough detail about his arrest to make it implausible that the officers lacked probable cause to seize and detain him. For instance, he admitted that the officers arrived at his house in response to reports of a domestic disturbance and a fired gunshot, and that they found a gun in his house. Regardless of whether he intended to assert a false arrest claim or a malicious prosecution claim, probable cause to arrest him (for any offense, *see Devenpeck v. Alford*, 543 U.S. 146, 153–55 (2004)) defeats both claims. *See Lee v. Harris*, 127 F.4th 666, 672, 676 (7th Cir. 2025).

His claim also fails when assessed under the Equal Protection Clause. Because he did not allege that he is a member of a suspect class, we consider whether he stated a class-of-one claim. That required him to “allege[] that [he] has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.” *Word v. City of Chicago*, 946 F.3d 391, 395–96 (7th Cir. 2020) (quoting *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000)). But Marcure offered no facts about similarly situated individuals or differential treatment. And, if we look at his grievance as one of selective enforcement, there are no facts in the complaint suggesting that the officers’ actions had a discriminatory purpose or effect. *See Hanes v. Zurick*, 578 F.3d 491, 495–96 (7th Cir. 2009) (explaining that allegations of selective enforcement by police can state a class-of-one claim).

Finally, Marcure argues that the district judge showed bias and therefore should be disqualified. *See* 28 U.S.C. § 455. Although he did not raise the issue in the district court, we may consider judicial-qualification arguments raised for the first time on appeal. *Thomas v. Dart*, 39 F.4th 835, 844 (7th Cir. 2022). Marcure asserts, without evidence, that the district judge had conflicts of interest and ex parte communications with an Assistant Attorney General and state judge, but he does not include any allegations that would cause the district judge's impartiality to be questioned by a reasonable, well-informed observer. *United States v. Barr*, 960 F.3d 906, 919 (7th Cir. 2020). Marcure also argues that the district judge displayed bias by dismissing his case before holding a scheduled (virtual) status conference. But district courts have broad discretion to manage their dockets, *see A. Bauer Mech., Inc. v. Joint Arb. Bd. of Plumbing Contractors' Ass'n*, 562 F.3d 784, 790 (7th Cir. 2009), and here, the judge vacated the status conference when it became clear that it was no longer required. This is not an action for which the judge's impartiality could reasonably be questioned. *See* 28 U.S.C. § 455(a); *Liteky v. United States*, 510 U.S. 540, 556 (1994).

AFFIRMED