

NONPRECEDENTIAL DISPOSITION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 May 1, 2025*

Decided May 5, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 24-2106

PATRICK M. FERRARI,
Plaintiff-Appellant,

v.

TODD LINK, et al.,
Defendants-Appellees.

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

No. 3:22-CV-00217-SPM

Stephen P. McGlynn,
Judge.

ORDER

Patrick Ferrari sued the Village of Glen Carbon, Illinois, the police chief, and various public officials, asserting that they violated his constitutional rights by requiring him to be escorted by a police officer when conducting business on Village property. *See* 42 U.S.C. § 1983. After giving Ferrari multiple chances to amend his complaint, the district court dismissed the suit for failure to state a claim because the

* We have agreed to decide this 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).

complaint lacked a plausible claim that the defendants acted in a way that violated the Constitution. We affirm.

The parties dispute which facts and arguments are properly before this court, so we first recount the procedural background of this case. In February 2022, Ferrari and his wife, Barbara, filed this lawsuit in federal court. They amended their complaint three times in response to the court’s screening order and the defendants’ motions to dismiss. In October 2022, the district court consolidated the case with three other matters that had recently been removed from state court—all pertaining to the notice or Ferrari’s associated arrests, *see* FED. R. CIV. P. 42(a)—and ordered the plaintiffs to file another amended complaint.

The Ferraris did so in November 2022. The district court later granted the defendants’ motion to dismiss that complaint, reasoning that it was “not only unorganized but utterly confusing” and failed to give notice to the defendants of the nature of the claims against them. (The thirty-page complaint repeatedly used “plaintiffs” and “defendants” without specifying which facts pertained to which of the two plaintiffs and fourteen defendants.) The district court dismissed the complaint with prejudice and entered judgment.

Represented by counsel from the Maag Law Firm, LLC, the Ferraris timely moved to alter the judgment under Rule 59(e) and for leave to amend the complaint as to only Patrick Ferrari, to avoid “manifest injustice.” *See* FED. R. CIV. P. 59(e). The district court granted that motion.

In September 2023, Patrick Ferrari (through attorney Peter Maag) filed a much shorter fifth amended complaint against the Village, the police chief, and two police officers.¹ Ferrari alleged that in 2019, the Village sent him a notice informing him that a uniformed police officer must stand by whenever Ferrari wishes to conduct “in person business” on Village property because his past behavior had placed workers in fear. Ferrari further alleged that in September 2019 and January 2020, he was conducting business at Village Hall, unescorted, when the police chief ordered his arrest by the two officers, based in part on Ferrari’s use of “harsh or coarse words.” This, he alleged, was

¹ Barbara Ferrari is listed as an appellant on the notice of appeal and briefing. Although she purports to be a party to the appeal, she was not a listed plaintiff on the operative, fifth amended complaint, and the district court therefore terminated her as a party on October 23, 2023. We therefore refer to Patrick as the only appellant, and we have revised the caption accordingly.

unlawful because the restrictions in the notice violated his rights under the First Amendment.

Eventually Ferrari's attorney moved to withdraw, citing his inability to contact Ferrari. The district court granted that motion. Shortly thereafter, the defendants moved to dismiss the complaint, arguing that the notice did not violate the First Amendment.

About a month later, Ferrari explained to the court that he had technical difficulties receiving calls from Peter Maag, the attorney who had filed the most recent complaint. Ferrari did not, however, express dissatisfaction with Maag's prior representation or the contents of the operative complaint, nor state that Maag was not previously authorized to represent him.

Ferrari later received multiple extensions of time to respond to the defendants' motion to dismiss. In granting the final extension of time, the district court ordered Ferrari to respond to the motion to dismiss the fifth amended complaint, specifying that it was the operative complaint. But Ferrari failed to respond before the deadline.

The district court then granted the defendants' motion to dismiss for failure to state a claim. *See* FED. R. CIV. P. 12(b)(6). It concluded that the notice did not violate the First Amendment: Ferrari was not excluded from Village Hall because of his viewpoint and was required only to have an escort while conducting business there. Because citizens do not necessarily have a First Amendment right to access public buildings or remain there, *see Perry Educ. Ass'n v. Perry Loc. Educators Ass'n*, 460 U.S. 37, 46 (1983), the district court dismissed the suit with prejudice.

Ferrari then filed several motions for reconsideration under Federal Rules of Civil Procedure 59 and 60(b) in quick succession, asserting, among other things, that he had not authorized the attorney to file the fifth amended complaint and had not wanted to limit his legal theories to alleged First Amendment violations. He asked the court for permission to file another amended complaint. The court promptly denied the motions. The attorney had properly filed the fifth amended complaint; though Ferrari argued that the attorney was an unauthorized "subcontractor," he was just another attorney employed by the law firm Ferrari had hired to represent him. Further, even though Ferrari had mentioned the complaint in previous filings, he had never asserted that Peter Maag was not authorized to file it. Regardless, because the fifth amended complaint had been operative for months after Maag withdrew from the case, Ferrari could not blame attorney error for his failure to respond to the motion to dismiss.

After his motions were denied, Ferrari filed a timely notice of appeal. *See* FED. R. APP. 4(a). (Because it was filed within 30 days of the judgment, the notice of appeal is timely without regard to the timing of the many motions for reconsideration or the court's ruling on them. FED. R. APP. P. 4(a)(1)(A), (a)(4). Therefore, our jurisdiction is not at issue.)

On appeal, Ferrari first contests the district court's consolidation of his cases. We review a decision to consolidate cases involving a "common question of law or fact" only for an abuse of discretion. *See Star Ins. Co. v. Risk Mktg. Grp. Inc.*, 561 F.3d 656, 660 (7th Cir. 2009). The district court did not abuse its discretion here. Each of the three complaints stemmed from the same grievance: that the 2019 notice violated the Constitution, rendering unlawful Ferrari's arrests for allegedly violating the terms of that notice. Consolidation was appropriate. *See id.*

Ferrari next disputes the district court's dismissal of the pro se, fourth amended complaint, which included allegations—omitted in the fifth amended complaint—about being mistreated during and after the arrests. The appellees appear to assert that we cannot review the dismissal of the fourth amended complaint because the notice of appeal did not reference that ruling. But a notice of appeal encompasses all orders that merge into the designated judgment, including any interlocutory actions along the way. *See* FED. R. APP. P. 3 (c)(4); *Carnes v. HMO Louisiana, Inc.*, 114 F.4th 927, 929–30 (7th Cir. 2024). The notice of appeal does not have to designate particular rulings when it is taken from the final judgment. *Id.* at 930.

Nevertheless, the decision to dismiss the fourth amended complaint is not properly before us. Ferrari chose not to stand on that complaint after it was dismissed; he could have done so and appealed the dismissal. *See McElroy v. Lopac*, 403 F.3d 855, 858 (7th Cir. 2005). Now it is too late to challenge the ruling because he amended the complaint again. *See Alejo v. Heller*, 328 F.3d 930, 935 (7th Cir. 2003). And because Ferrari omitted from the operative fifth amended complaint the allegations regarding his mistreatment, claims based on those allegations are abandoned. *See Anderson v. Donahoe*, 699 F.3d 989, 997 (7th Cir. 2012).

As for the fifth amended complaint, Ferrari advances no argument on appeal that engages with the district court's reasoning that the notice did not violate his First Amendment rights. He has therefore waived any argument otherwise. *See Bradley v. Vill. of Univ. Park*, 59 F.4th 887, 897 (7th Cir. 2023) (citing *Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 718 (7th Cir. 2012) (arguments may be waived if underdeveloped, conclusory, or unsupported by law); *Klein v. O'Brien*, 884 F.3d 754, 756–57 (7th Cir.

2018). And his arguments that the complaint set forth sufficient facts to show that the notice and subsequent arrests violated the Fifth and Fourteenth Amendments fare no better. Those arguments, too, are conclusory and contain no citation to pertinent authority. *See Bradley*, 59 F.4th at 897. Even though we construe Ferrari's pro se filings liberally, this court will not conduct legal research or develop arguments on his behalf. *See Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001).

Next, Ferrari argues that the district court erred when, in response to Ferrari's assertion that the fifth amended complaint was unauthorized, it refused to reopen the case and allow another amended complaint. This court reviews denials of a motion for reconsideration and a motion for leave to amend for an abuse of discretion. *O'Brien v. Vill. of Lincolnshire*, 955 F.3d 616, 628 (7th Cir. 2020). Here, the district court appropriately explained that Ferrari's contemporaneous pro se filings and his failure to move to withdraw or amend the complaint before the district court entered judgment undermined his claims that the attorney's actions were unauthorized. And because Ferrari had hired the law firm, he is bound by his counsel's actions and must seek relief against the attorney, not continue a suit against these defendants, if he contends that counsel acted inappropriately. *See S.E.C. v. Yang*, 795 F.3d 674, 679 (7th Cir. 2015).

AFFIRMED