

NONPRECEDENTIAL DISPOSITION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 December 22, 2025*

Decided December 22, 2025

Before

MICHAEL B. BRENNAN, *Chief Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 24-3230

ANTHONY BOYCE,
Plaintiff-Appellant,

v.

JASON PETERBURS, et al.,
Defendants-Appellees.

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

No. 24 C 4508

Thomas M. Durkin,
Judge.

ORDER

Anthony Boyce sued individual public defenders, the Law Office of the Cook County Public Defender, and an unnamed telephone company, alleging that he was denied services during his post-conviction proceedings in violation of the Americans with Disabilities Act, 42 U.S.C. § 12132, and the Rehabilitation Act, 29 U.S.C. § 794. The

* 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).

district court dismissed his complaint for failure to state a claim. *See* 28 U.S.C. § 1915A. We affirm.

We review de novo the district court's dismissal at screening, accepting the allegations in the complaint as true, drawing all reasonable inferences in Boyce's favor, and construing his pro se complaint liberally. *Wilson v. Castaneda*, 143 F.4th 814, 817 (7th Cir. 2025). In 2005, a jury convicted Boyce of first-degree murder, and he is currently serving a life sentence at Western Illinois Correctional Center in Mt. Sterling, Illinois. He suffers from various learning disabilities and mental health issues including dyslexia, attention deficit disorder, depression, and schizophrenia. In 2022, Assistant Public Defender Jason Peterburs was appointed to represent Boyce in a successive post-conviction petition in Illinois state court. Boyce alleges that his original handwritten petition was hard to read due to his dyslexia, but Peterburs refused to file an amended petition that was typed. Boyce claims that he should have been appointed a private attorney who could travel to the prison to communicate with him in person because Peterburs was unable to do so and telephone communication was insufficient due to Boyce's disabilities. Boyce also asserts that Peterburs did not obtain experts or a private investigator to prove that Boyce was tortured while in custody and was mentally ill at the time he committed first-degree murder, despite the public defender's office having enough funds to do so. Boyce lost his successive post-conviction matter but maintains that had he been provided with a private attorney, experts, and a private investigator, his post-conviction petition would have been successful.

Boyce sued Peterburs, other public defenders, the Law Office of the Cook County Public Defender, and an unnamed telephone company, alleging they discriminated against him because of his disabilities and identifying the ADA, the Rehabilitation Act, and 42 U.S.C. § 1983 as causes of action. The district court screened his complaint and dismissed it for failure to state a claim. *See* § 1915A. The court determined that Boyce's claims were subject to abstention under *Younger v. Harris*, 401 U.S. 37 (1971), because any findings regarding the efficacy of Peterburs's performance would call into question the results of ongoing criminal proceedings. The court also noted that because Boyce's claims would imply the invalidity of his conviction, they were barred under *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). The court also ruled that Boyce did not state a claim under § 1983 both because a plaintiff cannot state an action against a public defender for alleged ineffective assistance of counsel, and because public defenders are not state actors. Finally, the court explained that Boyce stated a claim under neither the ADA nor the Rehabilitation Act because Boyce was provided an attorney and thus was not denied access to a service or program.

Boyce appeals and appears to challenge only the dismissal of his claims under the ADA and the Rehabilitation Act. He argues that he is entitled to damages because he was denied access to services on the basis of his disabilities when Peterburs declined to file an additional typed post-conviction petition, met with him only over the phone rather than in person, and failed to investigate and prove that he was mentally ill at the time of the crime of which he was convicted, which, according to Boyce, resulted in an excessive sentence. To state a claim under the Rehabilitation Act or the ADA, the plaintiff must allege that he is a qualified individual with a disability and that he was denied the benefit of a service, program, or activity because of his disability. *Shuhaiber v. Ill. Dep't of Corr.*, 980 F.3d 1167, 1170 (7th Cir. 2020).

Even assuming Boyce is a qualified individual with a disability, the district court correctly dismissed the claims against the individual public defenders because neither the ADA nor the Rehabilitation Act creates a cause of action against employees in their individual capacities. *Stanek v. St. Charles Cmty. Unit Sch. Dist. No. 303*, 783 F.3d 634, 644 (7th Cir. 2015).

The allegation against the Law Office of the Cook County Public Defender also fails to state a claim—even assuming it is an entity covered by the ADA or the Rehabilitation Act—because Boyce was not denied the benefit of “services, programs, or activities of a public entity.” 42 U.S.C. § 12132. The service provided by the public defender’s office is legal representation, which Boyce received. And Boyce’s disagreement with the manner in which that service was provided does not state a claim under the ADA or the Rehabilitation Act. *Cf. Wagoner v. Lemmon*, 778 F.3d 586, 592–93 (7th Cir. 2015) (explaining that a wheelchair-bound prisoner did not state a claim under the ADA or the Rehabilitation Act, despite having to crawl off from a van that was not wheelchair accessible, because “longer waits and humiliation ... do not amount to a denial of services”). To the extent Boyce is arguing that the public defender’s office violated his rights by failing to prove that his initial conviction was the result of his disabilities, that claim is *Heck*-barred because it would imply the invalidity of his conviction. *See Heck*, 512 U.S. at 487.

Boyce also maintains that he was denied a service because of his disability when the public defender’s office did not provide private post-conviction counsel to replace Peterburs. But while Boyce was entitled under Illinois law to reasonable assistance of appointed counsel in his state post-conviction proceedings, *People v. Perkins*, 890 N.E.2d 398, 402 (Ill. 2007), he was not entitled to choose or replace his appointed counsel. *See People v. West*, 560 N.E.2d 594, 608 (Ill. 1990). And, as the district court noted,

Younger counsels against discussing Peterburs's performance because it appears Boyce is currently appealing the dismissal of his post-conviction petition on the grounds that Peterburs provided unreasonable assistance. *See Younger*, 401 U.S. at 43.

Next, Boyce contends that the court abused its discretion when it denied as moot his motions to appoint counsel because Boyce was incapable of litigating his complex case. We do not think the court erred. But even if the court did err by not assessing Boyce's motions to appoint counsel under the standard in *Pruitt v. Mote*, 503 F.3d 647, 654, 659 (7th Cir. 2007), this error was harmless—Boyce was not prejudiced because the case was properly dismissed for failure to state a claim.

Finally, Boyce argues that the district court erred by not allowing him to amend his complaint. But the court did review his proposed amended complaint and found it did not state a claim on which relief could be granted. The court did not err in dismissing Boyce's case without granting him another opportunity to amend his complaint, because to do so would have been futile. *See Gonzalez-Koeneke v. West*, 791 F.3d 801, 807 (7th Cir. 2015).

AFFIRMED