

NONPRECEDENTIAL DISPOSITION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 24, 2024*

Decided April 25, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-1074

CORNELL W. McCLURE,
Plaintiff-Appellant,

v.

T. J. WATSON, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Southern District of Indiana,
Terre Haute Division.

No. 2:20-cv-00371-JPH-DLP

James P. Hanlon,
Judge.

ORDER

Cornell McClure, a federal prisoner whose *Bivens* suit against employees of the Bureau of Prisons was dismissed, now challenges the district court's denials of his motions for recruitment of counsel and reimbursement of his filing fee. We affirm.

* 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).

Asserting violations of his First Amendment rights, McClure alleged that staff in the prison's mailroom misapplied the agency's policy about incoming publications and wrongly turned away books he had ordered. He alleged that he sought the help of the Warden, Assistant Warden, and Mailroom Supervisor and that they declined to intervene. The district court, which allowed McClure to proceed in forma pauperis, assessed an initial partial filing fee of \$48.61 and informed him that he would be "obligated" to pay 20 percent of his income each month "until the full filing fee of \$350.00 is paid." *See* 28 U.S.C. § 1915(b)(1)–(2). The defendants moved to dismiss the complaint for failure to state a claim, and McClure moved for recruitment of counsel, arguing that the case was complex and that he had only limited access to the law library.

The district court dismissed McClure's claim for damages under *Ziglar v. Abbasi*, 582 U.S. 120 (2017), but allowed him to pursue injunctive relief. The court also denied his motion for recruitment of counsel, given that he had filed "a cogent and well-researched response brief" and appeared competent to represent himself. Six months later, McClure moved again for recruitment of counsel. But before the court ruled on that motion, the parties stipulated to a dismissal of the case. The court acknowledged the dismissal and denied McClure's motion. McClure then filed a motion requesting reimbursement of his filing fee, which the court denied, explaining that it had no authority to return the fee or to order the defendants to do so.

On appeal, McClure suggests, without elaboration, that the district court should have reimbursed his filing fee. But nothing in 28 U.S.C. § 1915 permits a court to return a filing fee to a prisoner proceeding in forma pauperis. *See, e.g.*, 28 U.S.C. § 1915(b)(1) ("the prisoner shall be required to pay the full amount of a filing fee").

McClure also suggests that the court should have granted his motions to recruit counsel. But the court properly exercised discretion to deny the first motion, noting McClure's "well-researched" brief and competence to represent himself. *See Pruitt v. Mote*, 503 F.3d 647, 654, 658 (7th Cir. 2007) (en banc). The court also was within its discretion to deny the second motion, given McClure's agreement to dismiss the case.

To the extent McClure challenges actions that the defendants have taken since filing this appeal, he did not present those arguments to the district court and thus may not do so here. *See Biggs v. Chi. Bd. of Educ.*, 82 F.4th 554, 558 n.3 (7th Cir. 2023).

AFFIRMED