

NONPRECEDENTIAL DISPOSITION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 9, 2025*

Decided May 9, 2025

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-3251

KENNETH L. DRIESSEN,
Plaintiff-Appellant,

v.

ANTHONY A. VABALAITIS, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Western District of
Wisconsin.

No. 23-cv-45-jdp

James D. Peterson,
Chief Judge.

ORDER

This appeal concerns discovery disputes arising out of a civil-rights lawsuit that Kenneth Driessen brought against a local sheriff's department in the aftermath of an alleged assault against him. The district judge dismissed Driessen's suit with prejudice after he failed to comply with a discovery order and made statements showing an intent

* 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).

to abuse the discovery process. Because the judge acted within his discretion to dismiss the suit as a sanction, we affirm.

Driessen alleges that in 2022 he was assaulted in a bar in northern Wisconsin by two other patrons, Anthony Vabalaitis and Nickolas Philips. He further alleges that investigating deputies from the Sawyer County Sheriff's Department included false statements by the assailants in their investigation report and that the Department concealed evidence from the District Attorney about the assault. Driessen sued the alleged assailants and the Sheriff's Department for conspiring to violate his constitutional rights, *see* 42 U.S.C. § 1985; violating his constitutional rights under the First, Eighth, and Fourteenth Amendments, *see id.* § 1983; and violating Wisconsin law prohibiting making false statements, *see* WIS. STAT. § 946.32. (He brought additional claims, irrelevant to this appeal, against the bar and a newspaper that reported the incident.)

Discovery was contentious. After the Sheriff's Department served Driessen with interrogatories and requests for production, he told the Department's lawyer that he would produce only some of the requested records and would otherwise wait until the presiding magistrate judge retired before fully responding. The Sheriff's Department then moved to compel discovery. Driessen responded that the discovery requests were overly burdensome. The magistrate judge granted the Department's motion in part, ruling that Driessen was required to respond to most of the discovery requests—including one to document the medical costs incurred from the assault, and another to identify facts supporting his contention that the Department violated his constitutional rights. The magistrate judge also admonished Driessen for his plan to delay discovery and warned that future obstruction or failure to comply with the court's order could result in sanctions, including dismissal of his suit. Driessen eventually responded to the Department's discovery requests, but he refused to answer multiple questions, including a request to produce evidence of lost earnings and an interrogatory seeking contact information for employers past and present.

The Sheriff's Department then moved to dismiss the suit as a sanction for Driessen's discovery violations. *See* FED. R. CIV. P. 37(b). The district judge agreed that Driessen had carried out discovery in bad faith and dismissed the suit with prejudice under both Rule 37 and the court's inherent authority, *see Fuery v. City of Chicago*, 900 F.3d 450, 463–64 (7th Cir. 2018). The judge explained that Driessen's discovery responses were incomplete because he refused to answer multiple questions. The judge also found that Driessen misrepresented his lack of awareness of the court's order

compelling discovery. (Driessen in fact had quoted that order in prior discovery responses, the judge pointed out.)

Driessen moved to reconsider, arguing that the statements the district judge had treated as evidence of bad faith stemmed from a bout of major depression, brought on by the assault, rather than a willful intent to abuse the litigation process. He supplemented the motion for reconsideration with a letter addressed to him from a community mental health clinic (dated two weeks before his remark that he would delay discovery), saying that it could not currently provide him with its services. He also appended a report from a doctor's visit (dated six months later), diagnosing him with moderate recurrent major depression. The district judge denied the motion, concluding that this evidence did not call into question the court's determination that Driessen had intentionally delayed discovery "to gain a tactical advantage."

On appeal, Driessen challenges the magistrate judge's order to respond to discovery, arguing that the complexity of the Sheriff's Department's discovery requests rendered them unduly burdensome. But we see no abuse of discretion. *See Equal Emp. Opportunity Comm'n v. Wal-Mart Stores E., L.P.*, 46 F.4th 587, 601 (7th Cir. 2022). The magistrate judge allowed Driessen not to respond to the broadest requests and appropriately exercised his discretion in finding that the Department's remaining requests (e.g., to provide evidence supporting damages or to identify witnesses) were routine, relevant to its defense, and did not impose an undue burden.

Driessen also raises a two-part challenge to the district judge's order dismissing the case. He first argues that he complied with the order to respond to discovery because some of his filings included evidence—such as photographs of his injuries and medical records from his visit to the emergency room—that he regards as responsive to the Department's questions. But the judge correctly identified several ways in which Driessen's response was evasive or incomplete (e.g., not providing evidence concerning lost earnings or employer-contact information)—the equivalent of not answering, we have held, and thus a failure to comply with the discovery order. *See Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 775–76 (7th Cir. 2016) (citing FED. R. CIV. P. 37(a)(4)).

Second, Driessen objects to the court's conclusion that his statements were evidence of bad faith, urging that they be read in a forgiving light because he made them while suffering from a depressive episode. But the court did not clearly err by finding that Driessen had engaged in bad faith. An argument that a health condition excuses sanctionable behavior requires substantiation that the condition made compliance impossible. *See Moffitt v. Ill. State Bd. of Educ.*, 236 F.3d 868, 874–76 (7th Cir.

2001). The evidence Driessen presented—that he had only recently received treatment for his depression—did not show that he was unable to comply with the court’s order.

Driessen also argues that the court should have granted his other requests (e.g., a motion to compel, a motion for summary judgment, and a request for assistance of counsel). But these arguments are insufficiently developed to warrant discussion.

AFFIRMED