NONPRECEDENTIAL DISPOSITION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 July 9, 2025*
Decided July 9, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 25-1104

FOSTER CHAMBERS,
Plaintiff-Appellant,

v.

VILLAGE OF OAK PARK,
Defendant-Appellee.

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

No. 22-cv-6008

Jeffrey I. Cummings,
Judge.

O R D E R

Foster Chambers, a home-renovation contractor in the Village of Oak Park, Illinois, appeals the dismissal of his civil-rights lawsuit alleging that Village employees singled him out for disparate enforcement of building codes. Because Chambers admits

* 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).

violating the ordinances and because his theory of selective enforcement does not state a class-of-one claim under the Equal Protection Clause, we affirm.

Our focus is Chambers's fourth amended complaint, and we take its allegations at face value for purposes of this appeal. *See Sabo v. Erickson*, 128 F.4th 836, 842 (7th Cir. 2025) (en banc). For what Chambers concedes were building-code violations, he received 60 or so tickets citing problems at eight properties: inadequate construction fences, improperly placed portable toilets and dumpsters, uncut grass, and insufficient or expired permits. He faced over $40,000 in fines. Remedying the violations took time and resources, leading to the failure of certain projects.

Although Chambers admits the violations, he says enforcement was at best uneven. Other contractors, he insists, violated the same provisions but were never ticketed. He adds that his tickets began after a "verbal altercation" with a Village official who had enforcement duties. This official, he says, not only disparaged Chambers to project workers and investors but said the Village would run him out of business.

As relevant here, Chambers sued the Village under 42 U.S.C. § 1983, pressing a "class of one" theory under the Equal Protection Clause of the Fourteenth Amendment. The Village moved to dismiss the operative complaint, arguing, among other things, that it did not state a claim because the Village had a rational basis for issuing the tickets: Chambers had violated the ordinances. The district court agreed and, because it had previously warned Chambers that this was his last opportunity to file a complaint that states a claim, dismissed the case with prejudice. Chambers appeals.

In general terms, a class-of-one claim states that a plaintiff was "intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). But what counts as a sufficiently rational basis depends on the specific kind of treatment at issue. Here, there is no dispute that the Village had a rational basis for issuing tickets because Chambers violated the ordinances, as conceded in his complaint and (later) his appellate brief. That distinguishes this case from *Geinosky v. City of Chicago*, 675 F.3d 743, 747–49 (7th Cir. 2012), which involved obviously false ("bogus") tickets, meaning that officials lacked any rational basis to accuse Geinosky of wrongdoing. By contrast, valid tickets, on their own, are no basis for an equal-protection claim. *See Miller v. City of Monona*, 784 F.3d 1113, 1121–22 (7th Cir. 2015).

Yet Chambers argues that non-enforcement against others, plus officials' expressed irritation with him, made it unlawful to enforce the rules against him. But the

Village's decisions to ticket Chambers for genuine code violations are an exercise of prosecutorial discretion. And uneven exercises of that discretion against true offenders do not support a class-of-one theory, as we explained in *Tuffendsam v. Dearborn County Board of Health*, 385 F.3d 1124, 1127–28 (7th Cir. 2004).

This limitation harmonizes class-of-one doctrine with two bedrock constitutional principles: that selective-prosecution claims ordinarily must be based on suspect classifications or enumerated fundamental rights; and that individuals cannot compel prosecution of others. *See id.* (citing *United States v. Armstrong*, 517 U.S. 456, 464–65 (1996), and *Heckler v. Chaney*, 470 U.S. 821, 831–32 (1985)). As the Supreme Court remarked in a case ruling out class-of-one theories for employment disputes, "allowing an equal protection claim on the ground that a ticket was given to one person and not others, even if for no discernible or articulable reason, would be incompatible with the discretion inherent in the challenged action." *Engquist v. Or. Dep't of Agric.*, 553 U.S. 591, 604 (2008). Absent allegations that selective enforcement was based on a constitutionally invidious criterion—race, for example—it cannot be the basis for an equal-protection claim. *See Tuffendsam*, 385 F.3d at 1128; *Katz-Crank v. Haskett*, 843 F.3d 641, 649 (7th Cir. 2016) (citing *Engquist*, 553 U.S. at 603–04).

Chambers next argues that if Village officials harbored animus against him, then no otherwise-rational basis for enforcement survives equal-protection scrutiny. But only when a court cannot conceive of any rational basis for the challenged actions do allegations of animus come into play in a class-of-one case. *See Ind. Land Tr. #3082 v. Hammond Redev. Comm'n*, 107 F.4th 693, 698 (7th Cir. 2024). "If we can come up with a rational basis for the challenged action, that will be the end of the matter—animus or no." *Miller*, 784 F.3d at 1122 (internal quotation omitted).

Chambers's cited cases are not to the contrary. *Olech*, for instance, expressly rested not on an improper subjective motivation, but on the lack of an objectively rational basis for a local government's demand for an unusually large easement. 528 U.S. at 565. To be sure, *Swanson v. City of Chetek*, 719 F.3d 780, 784–85 (7th Cir. 2013), emphasizes that a clear showing of animus might relieve class-of-one plaintiffs of the need to identify similarly situated persons who were treated differently. But it does not relieve them of the need to show that the enforcement actions against them also lacked an objectively rational basis. For otherwise-valid enforcement actions, animus does not create a class-of-one claim.

Chambers's other arguments are irrelevant or waived. He asserts that the district court improperly decided that other contractors' projects with un-ticketed code

violations were insufficiently similar to his. But the basis for the district court's dismissal was that enforcement was rational, not that other projects had insufficiently similar violations. Chambers also argues that in dismissing his fourth amended complaint, the district court overlooked a due-process claim that the Village failed to give him adequate notice and a chance to respond to the building-code violations. But Chambers abandoned this claim early in the district-court proceedings; his fourth amended complaint and related filings in the district court make no mention of it. It is therefore waived. *See Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 718 (7th Cir. 2012).

There is one final matter. The Village has moved for sanctions under Rule 38 of the Federal Rules of Appellate Procedure, which applies to frivolous appeals. In support, the Village points to spots where Chambers's filings misquote cases, misrepresent their facts or holdings, and in some instances appear to cite nonexistent cases. Because we are aware of the difficulty of litigating cases pro se, and because Chambers has not responded to the Village's pending motion, we order Chambers, within 14 days, to show cause as to why he should not be subject to monetary sanctions or a filing bar. The judgment of the district court is AFFIRMED.