NONPRECEDENTIAL DISPOSITION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 10, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2417

FLYNT J. LEE, *Plaintiff-Appellant*,	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
v.	No. 19-cv-00030
PEREZ STANFORD, et al., *Defendants-Appellees*.	Andrea R. Wood, *Judge*.

O R D E R

Flynt (also known as Flint) Lee is required by Illinois law to register as a sex offender. Lee sued the Illinois State Police and a Chicago Police officer who, on a single occasion, refused to provide him with an application to waive the registration fee,

* 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).

alleging that they violated his constitutional rights under the Fourteenth Amendment. The district court granted the defendants' motions to dismiss. We affirm the judgment.

In 2019, Lee sued numerous state and local officials, alleging that the registration requirements for sex offenders in Illinois, as applied to him, violated his constitutional rights. *See* 42 U.S.C. § 1983. The district court granted the defendants' motions to dismiss Lee's amended complaint but offered him leave to file a second amended complaint. The court instructed Lee to limit this complaint to a potential claim that Officer Perez Stanford violated his constitutional rights by refusing to provide him with an application to waive the registration fee when he attempted to register as a sex offender in September 2019.

In his second amended complaint, Lee named Stanford as the sole defendant and sought damages against her in her individual capacity. He alleged that when he tried to register as a sex offender at the Chicago Police Department, Stanford told him that he could not register unless he paid the $100 fee. Lee informed Stanford that he was unemployed and requested an application for a discretionary waiver of the fee, but Stanford refused to give the application to him, instructed him to leave, and filled out a form reflecting that he was not registered because he had not paid and that she had not given him a waiver application. According to Lee, Stanford had no rational basis for the refusal, and she knew or should have known that refusing to provide Lee with the application would cause Lee to be arrested for failing to register, as he later was.

After Lee filed his second amended complaint, the district court granted Stanford's motion to stay the proceedings under *Younger v. Harris*, 401 U.S. 37 (1971), while Lee's prosecution for failure to register proceeded in state court. After those charges were dismissed, the district court reinstated this case and allowed Lee to file a third amended complaint.

Lee responded by filing an "amendment to complaint to add additional defendants and increase damages" that again named Stanford and added the Illinois State Police and the Chicago Police Department Registration Division as defendants. He alleged in only general terms that the defendants refused to give him a fee-waiver application; that the Illinois State Police knew that the Chicago Police Department was preventing indigent registrants from receiving applications; and that indigent sex offenders were treated unfairly in the registration process.

The district court dismissed the case. The court explained that the Department "is not a suable entity separate from the City of Chicago"—a ruling that Lee does not

challenge on appeal. The court next concluded that any claims against the Illinois State Police were barred by the Eleventh Amendment, which immunizes states (and their agencies) against suits for damages. As for Stanford, the court concluded that the dismissal should be with prejudice because Lee had several opportunities to state a claim in his suit, to no avail. The court explained that even in Lee's more detailed second amended complaint, he failed to state a claim: Stanford's refusal to provide a fee-waiver application did not amount to a violation of Lee's rights under the Equal Protection Clause of the Fourteenth Amendment on a class-of-one theory.

On appeal, Lee challenges the district court's dismissal, a decision we review de novo, *see Geinosky v. City of Chicago*, 675 F.3d 743, 746 (7th Cir. 2012), and argues that he stated claims against the Illinois State Police and Stanford. Lee mostly rehashes his grievances with the Illinois State Police and appears to challenge the district court's ruling that the Eleventh Amendment bars his claims for money damages against the state agency. Although we agree with the district court that these claims cannot go forward, we need not reach the Eleventh Amendment issue because, immunity aside, a state agency is not a "person" suable under § 1983. *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 64 (1989); *see also Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 779–80 (2000) (explaining that courts should consider first whether a state can be sued under a statute, before considering constitutional issues). Lee argues that individual officers do not benefit from the state's immunity, and names, for the first time on appeal, Brandon Kelly, the "CEO of the Illinois State Police Registration Unit," as a defendant. But Lee never identified Kelly as a defendant in the district court and may not add him now. *See Myles v. United States*, 416 F.3d 551, 552 (7th Cir. 2005).

Lee next argues that he stated a claim against Stanford for violating his constitutional rights under the Equal Protection Clause for her refusal to give him a fee-waiver application. He does not base his claim on any suspect classification and so can proceed only on a class-of-one theory—a "heavy burden" to carry. *Greenwald Fam. Ltd. P'ship v. Mukwonago*, 100 F.4th 814, 822–23 (7th Cir. 2024). The precise requirements for a class-of-one claim remain unsettled in this court. *See FKFJ, Inc. v. Village of Worth*, 11 F.4th 574, 588–89 (7th Cir. 2021) (collecting cases); *see generally Del Marcelle v. Brown Cnty. Corp.*, 680 F.3d 887, 888 (7th Cir. 2012) (en banc) (per curiam) (affirming by an equally divided court). But to state such a claim under any interpretation, a plaintiff must allege that he 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); *see also FKFJ*, 11 F.4th at 588 ("two main prongs" of claim are clearly established).

We agree with the district court that Lee failed to state a claim that Stanford had intentionally treated him differently, even if we were to liberally construe what the district court thought to be Lee's third amended complaint as "a pro se litigant's attempt to add parties and incorporate the [second] amended complaint's allegations by implicit reference." *Otis v. Demarasse*, 886 F.3d 639, 644–45 (7th Cir. 2018). The least demanding standard for a claim based on a class-of-one theory still requires Lee to plausibly allege that he "was the victim of intentional discrimination," and that Stanford "lacked a rational basis for so singling [him out]." *Charleston v. Bd. of Trs. of Univ. of Ill. at Chi.*, 741 F.3d 769, 775 (7th Cir. 2013) (quoting *Del Marcelle*, 680 F.3d at 913 (Wood, J., dissenting)). Although Lee peppers throughout the complaint that Stanford acted "intentionally," "arbitrarily," and with "no rational basis," these bare legal conclusions are irrelevant to our assessment. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To survive a motion to dismiss, a complaint must contain "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007)). The only factual content that Lee provided was that Stanford refused his request for a fee-waiver application on one occasion, inexplicably violating an unspecified state law. But, of course, a state officer's alleged violation of state law alone does not give rise to a constitutional claim under the Equal Protection Clause or otherwise. *Snowden v. Hughes*, 321 U.S. 1, 11–12 (1944); *Thiele v. Bd. of Trs. of Ill. State Univ.*, 35 F.4th 1064, 1066–67 (7th Cir. 2022).

We have recognized that "it is not so easy" to file a complaint under a class-of-one theory that satisfies the *Twombly* standard. *Frederickson v. Landeros*, 943 F.3d 1054, 1060 (7th Cir. 2019). Typically, one states a claim by alleging that "a defendant has either a personal financial stake or some history with the plaintiff" that demonstrates a lack of a rational basis for the defendant's actions. *Id.* at 1062. In a factually similar case, Rex Frederickson provided ample support for an inference that Tizoc Landeros had a motive to discriminate in blocking Frederickson's sex-offender registration based on their "years-long and tumultuous relationship." *Id.* at 1063–64, 1066. In contrast, Stanford's refusal to provide Lee with the fee-waiver application on a single occasion, without more, does not give rise to a similar plausible inference that Lee was the victim of intentional, irrational discrimination. *Cf. Geinosky*, 675 F.3d at 748 ("Somewhere between the first several and the twenty-fourth bogus tickets …, Geinosky's grievance rose to the level of an actionable class-of-one discrimination claim.").

As the district court explained, Lee's barebones allegations imply negligence or incompetence just as much as, if not more than, they do discrimination—that Stanford

acted "because of, not merely in spite of," the fact that it was Lee who wanted the application. *Del Marcelle*, 680 F.3d at 913 (Wood, J., dissenting) (quoting *Wayte v. United States*, 470 U.S. 598, 610 (1985)). And if "a complaint pleads facts that are 'merely consistent with' a defendant's liability," then it fails to state a claim. *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 557).

Lee also appears to recast his allegations as a claim that Stanford violated his right to procedural and substantive due process under the Fourteenth Amendment, but his argument lacks merit. He again emphasizes alleged violations of an unspecified state law that are irrelevant. *Thiele*, 35 F.4th at 1066–67. According to Lee, Stanford violated his right to procedural due process by denying him the application and thus preventing him from registering as a sex offender. But Lee does not have a cognizable liberty interest in registering as a sex offender. *See Beley v. City of Chicago*, 901 F.3d 823, 826 (7th Cir. 2018). Lee's argument that Stanford violated his right to substantive due process is equally unpersuasive. "Substantive due process claims can address harmful, arbitrary acts by public officials," but Lee's allegations that Stanford refused to give him an application do not "'shock[] the conscience' in the sense required in due process cases," *Geinosky*, 675 F.3d at 750 (quoting *Tun v. Whitticker*, 398 F.3d 899, 902 (7th Cir. 2005)), and thus dismissal was proper.

AFFIRMED