

NONPRECEDENTIAL DISPOSITION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 2, 2022*

Decided December 12, 2022

BeforeDAVID F. HAMILTON, *Circuit Judge*MICHAEL B. BRENNAN, *Circuit Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 20-1114

JASON JAMES HYATT,
*Plaintiff-Appellant,*Appeal from the United States District
Court for the Western District of Wisconsin.*v.*

No. 3:16-cv-00383-wmc

MIKE LUKAS, et al.,
*Defendants-Appellees.*William M. Conley,
*Judge.***ORDER**

Jason Hyatt appeals a summary judgment decision in favor of the correctional officers he sued for violating his constitutional rights at the Portage County Jail in Stevens Point, Wisconsin. The district court concluded that Hyatt did not raise any genuine issue of material fact with respect to his claims that the officers denied him

* 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).

meaningful access to the courts and violated his right of equal protection by depriving him of certain services. On appeal, we accept Hyatt's representation that he asserted only an access-to-courts claim, but viewing the record through that lens, we conclude that judgment for the defendants was proper nevertheless. We also see no error in the discretionary decisions that Hyatt challenges. Therefore, we affirm.

In April 2016, Hyatt was temporarily transferred from Green Bay Correctional Institution to the Portage County Jail so he could attend proceedings to withdraw his guilty plea in his criminal case. He arrived at the jail with a box of legal materials and personal documents. Hyatt was informed that he could not keep the entire box of materials with him because the jail's policy allowed only a three-inch stack of documents in a cell for safety and security reasons. The rest of the materials were taken and stored. Hyatt also brought envelopes with him from Green Bay, many of which were stored outside his cell. When he tried to purchase more envelopes from the jail's canteen, he could not; his account had been frozen to pay outstanding court fees. His alternative means of communication was the phone. (He does not state whether he had access to email.) But the two phones in the cell area required payment and could not be used to leave voicemails. The other phone was designated for staff use. An inmate could use it only if a correctional officer gave permission based on a special circumstance. Hyatt was denied permission many times, while others were permitted to use the staff phone.

Hyatt wanted to review and provide his criminal defense lawyer with records from Green Bay to support his argument that his guilty plea was involuntary because of his mental state at the time (when he was in solitary confinement at Green Bay). But he did not get access to his full box of materials until he met with his attorney on the day of the hearing. Hyatt and his attorney did not reference or submit any documents during his hearing. Hyatt testified that he had accepted the plea deal only because solitary confinement harmed his mental and physical health, but the judge did not find his testimony credible and denied his motion to withdraw the plea.

In June 2016, Hyatt filed a complaint under 42 U.S.C. § 1983, which the district court dismissed without prejudice at screening. Hyatt's amended complaint alleged, among other things, that the defendants restricted his access to materials he needed for his criminal case, denied him use of the staff phone that other inmates could use, and prevented him from purchasing more envelopes at the canteen after taking the ones he came with. He asserted that these actions violated multiple constitutional rights.

Hyatt also moved for the recruitment of pro bono counsel. He stated that he would be unable to litigate his case because he is incarcerated with limited access to

legal materials, the issues of his case were complex and required substantial research or investigation, and he has a learning disability (identified elsewhere as ADHD).

The court screened the amended complaint and determined that Hyatt could proceed on claims that he was deprived of meaningful access to the courts in violation of the First Amendment and was denied benefits available to other inmates in violation of his equal-protection rights. But the court declined to recruit counsel. It accepted that Hyatt could not afford counsel and had made reasonable efforts to find his own lawyer but concluded that the challenges of his incarceration and learning disability did not prevent him from representing himself adequately. The court noted that Hyatt's communications were "clear and coherent" and that it was too soon to know how complex the case was or whether Hyatt could manage discovery or legal research.

Hyatt filed three more motions for the recruitment of counsel. He repeated his earlier arguments while clarifying that his anxiety disorder, ADHD, "and other psychological diagnoses" made it difficult for him to litigate. He added that he previously relied on the help of two jailhouse lawyers who were not available anymore, and that his transfer away from the Portage County Jail made obtaining discovery difficult.

Before the district court ruled on these motions, the defendants moved for summary judgment. Hyatt then filed motions to deny or delay action on the summary judgment motion, asserting that he lacked sufficient access to legal resources and needed more time to produce discovery. He also argued about the substance of his claims. The court denied Hyatt's requests and ordered him to respond to the summary judgment motion.

The court also denied the three pending motions to recruit counsel. It determined that the "legal and factual difficulty of the case" did not exceed Hyatt's demonstrated ability. The court noted that Hyatt's lengthy filings, which "responded substantively to many of the defendants' proposed findings of fact and legal arguments," demonstrated that Hyatt had "the intellectual ability" to litigate his claims.

After Hyatt responded to the motion for summary judgment, the district court granted it. First, the court concluded that denying Hyatt's request to use a free phone, requiring him to pay for envelopes in the canteen, and limiting the amount of paper in his cell were not equal-protection violations. Hyatt lacked evidence that the defendants acted arbitrarily or treated him worse than other inmates. On the access-to-courts claim, the court determined that Hyatt had not created a factual dispute about whether the lack of access to his full box of documents until the day of his hearing actually injured him in his presentation of a non-frivolous legal claim.

On appeal, Hyatt first argues that the district court misconstrued his theory of the case—that all the allegedly unlawful acts together deprived him of meaningful access to the courts—when it addressed his claims under an equal-protection theory. But even with this clarification, his claim does not survive summary judgment, which would require evidence that the defendants’ official acts frustrated his pursuit of a non-frivolous legal claim. *Jones v. Van Lanen*, 27 F.4th 1280, 1287 (7th Cir. 2022). There must be “more than just some minimal degree of impediment,” *id.* at 1288, and more than a theoretical injury. *Lewis v. Casey*, 518 U.S. 343, 351 (1996). Hyatt argues that he established that the defendants, by depriving him of his materials and limiting his access to a free phone and envelopes, impeded his preparation for the hearing on his motion to withdraw his guilty plea and caused him to lose that motion.

But Hyatt’s claim cannot succeed as a matter of law. To start, a plaintiff is not deprived of meaningful access to the courts when jail officials confiscate legal materials if the plaintiff has personal knowledge of the matter that supports his underlying claim. *Jones*, 27 F.4th at 1288. Hyatt says that his papers would have shown that his plea agreement was invalid because solitary confinement had severely depleted his mental and physical health. But Hyatt had personal knowledge of the prison conditions and his own mental and physical state, and he testified about his experience at his plea-withdrawal hearing. He does not suggest that he was not allowed to testify about his diagnoses and treatment or that the judge cited a lack of documentation in denying the motion. Thus, he did not demonstrate that the deprivation of his materials was a “meaningful impediment” when he had personal knowledge of the basis of his arguments. *See id.*

Furthermore, Hyatt cannot show an actual injury because he has not stated with specificity what materials he lacked that could have led to a different outcome. *Devbrow v. Gallegos*, 735 F.3d 584, 587 (7th Cir. 2013). He generally asserts that he was deprived of possessing *all* of his materials (or viewing them all and condensing them)—but there is no evidence in the record of what was in the box besides the medical records Hyatt mentions, and the evidence establishes only that he could not keep all the papers in his cell *at one time*. He similarly argues without specificity that restricted access to envelopes and a free phone created a “barrier to communicat[ion]” with his lawyer. But he never established that he had a need to communicate something specific and could not do so. The evidence shows he communicated with his lawyer before the hearing, and further, that he wished to use the free phone to speak to his family. Therefore, he asserts only a “theoretical” injury, which is insufficient. *See Lewis*, 518 U.S. at 351.

Another legal impediment to the access-to-courts claim is that Hyatt was represented by counsel in his criminal proceedings. When a prisoner lacks access to

legal materials but is represented by counsel, he is not without meaningful access to the court. *Campbell v. Clarke*, 481 F.3d 967, 968 (7th Cir. 2007) (citing *Bounds v. Smith*, 430 U.S. 817, 830–32 (1977)). Hyatt’s lawyer could obtain medical or other records. And Hyatt has never alleged, let alone proved, that his attorney lacked these things because Hyatt couldn’t provide them. In fact, Hyatt made his only written request to access his materials the night before his hearing, and he received his box before meeting with counsel the next day. For these reasons, summary judgment for the defendants was proper.

Hyatt next challenges the district court’s decisions to deny recruiting counsel on his behalf. We review these decisions for an abuse of discretion. *Pruitt v. Mote*, 503 F.3d 647, 649 (7th Cir. 2007) (en banc). When deciding whether to recruit counsel, the court must determine, as relevant here, whether the factual or legal difficulty of the case is beyond the capabilities of the plaintiff. *Id.*

Hyatt contends that the district court overlooked most of his arguments when it denied his motions. We agree that the court did not discuss in any detail Hyatt’s learning disability, his mental health, his transfer from the jail, or his reliance on jailhouse lawyers—all things we have instructed district courts to consider. *See Eagan v. Dempsey*, 987 F.3d 667, 682–83 (7th Cir. 2021); *McCaa v. Hamilton*, 893 F.3d 1027, 1032–33 (7th Cir. 2018) (*McCaa I*). Further, the court’s reasoning remained largely unchanged as the case progressed, although “complexity increases and competence decreases as a case proceeds.” *Eagan*, 987 F.3d at 683. But the court weighed Hyatt’s skillful communications against the court’s limited resources to appoint counsel, and a pragmatic consideration of how to allocate the few available attorneys can support a decision to deny recruitment of counsel. *See McCaa v. Hamilton*, 959 F.3d 842, 844–46 (7th Cir. 2020) (*McCaa II*). Hyatt also did not explain to the district court how his disabilities impaired his ability to litigate nor what discovery he could not obtain by mail or email, which, “in the face of his well-organized” filings and abundant correspondence, allowed the court’s reasonable inference that he could manage alone. *Id.* at 847.

Ultimately, whether the court abused its discretion is not dispositive because Hyatt cannot show on appeal that he was prejudiced by the denial of counsel. *Pruitt*, 503 F.3d at 659; *McCaa I*, 893 F.3d at 1034. Even though, as in any case, an attorney undoubtedly would have helped Hyatt conduct discovery and respond to the motion for summary judgment, counsel could not have changed the fact that Hyatt’s access-to-courts claim is foreclosed by our precedent.

Hyatt also has not demonstrated error with respect to the denial of his motion for more time to respond to the summary judgment motion, which Hyatt had based on a

need for more time to obtain and respond to discovery and his lack of adequate resources. The decision to not extend a deadline is also reviewed for an abuse of discretion, and we disturb it only if the court “acted unreasonably.” *Blue v. Hartford Life & Accident Ins. Co.*, 698 F.3d 587, 593 (7th Cir. 2012) (quoting *Gonzalez v. Ingersoll Milling Mach. Co.*, 133 F.3d 1025 (7th Cir. 1998)). Here, the district court’s explanation is reasonable: despite the purported lack of resources, Hyatt filed a twenty-page motion for an extension of time to file his brief—one of many very long motions—in which he made several legal arguments, and he did not explain “with *any* degree of specificity” what he needed to respond properly. The same is true on appeal; Hyatt does not tell us what he needed to oppose the motion more effectively or how he otherwise demonstrated good cause. *Id.* 592–94. Thus, we discern no prejudice.

AFFIRMED