

NONPRECEDENTIAL DISPOSITION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 10, 2024*

Decided December 13, 2024

BeforeDIANE S. SYKES, *Chief Judge*JOHN Z. LEE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-1710

JALAM VANTROY SMITH,
*Plaintiff-Appellant,**v.*LUTHERAN UNIVERSITY
ASSOCIATION, INC.,
*Defendant-Appellee.*Appeal from the United States District
Court for the Northern District of Indiana,
Hammond Division.

No. 2:21-CV-178-TLS

Theresa L. Springmann,
*Judge.***ORDER**

After Jalam Smith sued the Lutheran University Association, Inc. (also known as Valparaiso University) for racially discriminating against him while he was a student at the university, Valparaiso moved for summary judgment. In opposing that motion, Smith failed to comply with the local rules, and the district judge entered summary judgment for Valparaiso. On appeal, Smith contests the entry of summary judgment

* 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).

and other procedural rulings. Because Smith did not properly dispute the facts that mandate summary judgment, and his additional challenges lack merit, we affirm.

We construe the record in favor of Smith, the non-moving party. *See Vesey v. Envoy Air, Inc.*, 999 F.3d 456, 459 (7th Cir. 2021). Smith, who is Black, attended Valparaiso for one semester in 2019. He enrolled in five courses. In his social-work course, Smith often turned in assignments late, and his work was rated subpar, leading his professor to talk to Smith about his poor performance and tardiness. Smith believes that he was graded unfairly because of his race, and the professor harassed him with emails about his inadequate performance. Later, Smith stopped attending the course, Valparaiso denied Smith's request to withdraw from it, and he ultimately failed it. Smith also struggled in his chemistry course. He eventually withdrew from it upon his professor's recommendation. In Smith's view, he was again unfairly graded because of his race and harassed about his inadequate performance in that course.

Smith complained to no avail to Valparaiso and the Office of Civil Rights of the United States Department of Education, precipitating this suit. In his verified complaint, he alleges that Valparaiso discriminated against him on the basis of race in violation of Title VI of the Civil Rights Act of 1964, *see* 42 U.S.C. § 2000d; violated his rights under the Fourteenth Amendment, *see* 42 U.S.C. § 1983; and conspired to violate those rights based on his race, *see* 42 U.S.C. § 1985. He also sued Valparaiso for violations of Indiana law. *See* 28 U.S.C. § 1367.

Valparaiso later moved for summary judgment on all claims and filed a Statement of Material Facts in compliance with Rule 56 of the Federal Rules of Civil Procedure and local rules. *See* N.D. IND. L.R. 56-1(a)(3). Local rules required Smith to file a response to Valparaiso's statement along with his own statement of any additional material facts, and to cite supporting evidence in the record. *See id.* 56-1(b)(2)–(3). Smith filed a "Statement of Undisputed Genuine Issues of Material Fact," but it did not respond to Valparaiso's statement, identify facts he disputed, or properly cite the record for evidence supporting the arguments that he included.

The district judge ruled that Smith had failed to dispute Valparaiso's Statement of Material Facts properly, accepted the facts from Valparaiso as admitted (which we recounted above), and entered summary judgment for Valparaiso. The judge also explained that Smith lacked a *prima facie* case of racial discrimination under Title VI because he cited no evidence that he was meeting Valparaiso's legitimate educational expectations or was treated worse than similar students of other races. The judge also

ruled that Smith had abandoned his other claims by failing to address Valparaiso's arguments. Smith moved to amend the judgment, but the judge denied his motion.

On appeal, Smith contests the summary judgment, a decision that we review de novo. *Vesey*, 999 F.3d at 461. According to Smith, the district judge failed to hold Valparaiso to its evidentiary burden of production and persuasion. He believes that Valparaiso was required, but failed, to rule out the prospect of a jury finding in his favor on each claim.

Smith's argument inverts the burdens at summary judgment. Contrary to Smith's assertion, Valparaiso was not required to support its motion with evidence negating Smith's claims because Smith, not Valparaiso, bore the burden of proof on each claim at trial. *See Johnson v. Advoc. Health & Hosps. Corp.*, 892 F.3d 887, 896 (7th Cir. 2018) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–24 (1986)). Once Valparaiso showed the district judge that no evidence supported Smith's claims, Smith needed "to make a showing sufficient to establish the existence of" the elements of his claims. *See Celotex*, 477 U.S. at 322. To do so, he had to "designate specific facts showing that there is a genuine issue for trial" on those elements. *See Johnson*, 892 F.3d at 896 (citing *Celotex*, 477 U.S. at 324). For his Title VI claim, these elements included meeting the course's legitimate educational expectations and receiving worse treatment compared to similar students of different races. *See Brewer v. Bd. of Trs. of Univ. of Ill.*, 479 F.3d 908, 921 (7th Cir. 2007). But Smith did not designate any facts supporting these elements, as the local rules required. That failure means that Valparaiso is entitled to summary judgment.

We recognize that Smith submitted a verified complaint, and he correctly notes that a verified complaint is the equivalent of an affidavit for purposes of summary judgment. *Beal v. Beller*, 847 F.3d 897, 901 (7th Cir. 2017) (citing *Ford v. Wilson*, 90 F.3d 245, 246 (7th Cir. 1996)). But he did not cite any parts of his complaint in responding to Valparaiso's statement that no evidence supported his Title VI claim. Because of that failure, the district judge reasonably deemed the facts in Valparaiso's statement admitted and, based on those facts, properly entered summary judgment. *See Friend v. Valley View Cmty. Unit Sch. Dist.* 365U, 789 F.3d 707, 710–11 (7th Cir. 2015).

As for Smith's other claims, he argues that the district judge wrongly ruled that he had "abandoned" them. But even if we do not treat those claims as "abandoned," summary judgment was correct because on de novo review we conclude that, as with his Title VI claim, Smith did not properly support them. His response to Valparaiso's motion alluded to discrimination, harassment, and violations of state law. But again, he

did not identify in the record evidence upon which a reasonable jury could find for him on those claims, thereby permitting the district judge to rule against him.

Smith raises procedural challenges to the summary judgment, but they all lack merit. He first argues that the district judge took “judicial notice” of the factual allegations in his complaint under Rule 201 of the Federal Rules of Evidence, and thus he did not need to cite evidence at summary judgment. He points to the judge’s statement in its screening order assessing the legal sufficiency of his complaint, where it stated that it would “accept his allegations as true.” But the judge was merely explaining that courts assume the truth of allegations in a complaint for purposes of reviewing the allegations for legal sufficiency. *See, e.g., Ashcroft v. Iqbal*, 556 U.S. 662, 669 (2009). This is not the same thing as taking “judicial notice” of facts. *See* FED. R. EVID. 201(b). In any event, this review did not relieve Smith of his duty to obey the local rules citing evidence in response to a motion for summary judgment.

Smith next argues that summary judgment was improper because the district judge granted his motion to proceed in forma pauperis (IFP), *see* 28 U.S.C. § 1915, and accepted his verified complaint. But Smith provides no explanation for why his IFP status was relevant to summary judgment. And again, he did not tell the district judge (nor does he tell us) which statements in his verified complaint created a genuine issue of material fact. He thus gives us no reason to disturb the district judge’s judgment.

Smith also argues that summary judgment was improper because several of Valparaiso’s employees that he mentioned in his complaint did not submit sworn declarations in support of the motion for summary judgment. But as we explained above, in moving for summary judgment a defendant need not submit any evidence, including sworn declarations, negating the claims on which the plaintiff bears the burden of proof. *See Celotex*, 477 U.S. at 323–24.

Finally, Smith’s unpersuasively challenges the denial of his post-judgment motion, which we review for an abuse of discretion. *Vesey*, 999 F.3d at 463 (citing *Cincinnati Life Ins. Co. v. Beyrer*, 722 F.3d 939, 953 (7th Cir. 2013)). A motion under Rule 59(e) of the Federal Rules of Civil Procedure must introduce new but previously unavailable evidence or demonstrate a manifest error of law or fact. *Id.* Smith argues that, because he attached a new statement of facts opposing summary judgment, the district judge unreasonably denied his motion. But Smith’s motion was simply an attempt to relitigate summary judgment with a new statement of facts. Because Smith

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failed to explain why these facts were unavailable and did not offer any new evidence or show a manifest error of law, the judge reasonably denied the motion.

AFFIRMED