

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 22, 2023

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

EMANUEL PITTMAN,

Plaintiff - Appellant,

v.

B. KRAMER; JOHN DOE, Supervisor,

Defendants - Appellees.

No. 23-1067
(D.C. No. 1:22-CV-02771-LTB-GPG)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **HARTZ**, and **PHILLIPS**, Circuit Judges.

Emanuel Pittman, a Colorado inmate, sued prison mailroom employees under 42 U.S.C. § 1983. Mr. Pittman claimed that the employees mishandled his medical records, preventing him from obtaining a Social Security card. The employees' conduct, Mr. Pittman alleged, violated his rights under the First and Fourteenth Amendments. The district court dismissed the case without prejudice under Federal

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Rule of Civil Procedure 41(b) based on its conclusion that Mr. Pittman’s complaint did not comply with Federal Rule of Civil Procedure 8. We affirm.

Background

Confined in a Colorado prison, Mr. Pittman is trying to obtain a Social Security card. His complaint alleged that two employees in the prison mailroom prevented him from obtaining the card by mishandling medical records and “taking them out of their original form.” R. at 6. The complaint alleged that the employees should have treated the documents “as legal mail” by opening them in front of Mr. Pittman and giving them back to him as he had “sent them out.” *Id.* The employees’ conduct, the complaint asserted, violated Mr. Pittman’s First Amendment rights¹ and his Fourteenth Amendment right to equal protection. The complaint does not make clear, however, exactly what the mailroom employees allegedly did to any documents or how their actions prevented Mr. Pittman from obtaining a Social Security card.

A magistrate judge reviewed Mr. Pittman’s complaint and ordered him to amend it. The order summarized First Amendment principles related to inmate mail and directed Mr. Pittman to include “sufficient factual allegations” in his amended complaint to show that he was entitled to relief under those principles. R. at 14. The order further informed Mr. Pittman that his amended complaint should “allege in a clear, concise, and organized manner what each defendant did to him, when the

¹ The complaint did not identify a specific right protected under the First Amendment.

defendant did it, how the defendant’s action harmed him, what specific legal right he believes the defendant violated, and what specific relief he requests.” *Id.* The order warned Mr. Pittman that the case would be dismissed “without further notice” if he did not file an amended complaint. R. at 15.

Mr. Pittman never filed an amended complaint. And so the magistrate judge recommended that the district court dismiss the case without prejudice under Rule 41(b) because Mr. Pittman’s complaint did not satisfy Rule 8, a provision requiring a complaint to contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Adopting the recommendation over Mr. Pittman’s objection, the district court dismissed the case without prejudice. Mr. Pittman appeals.²

Discussion

We review the district court’s dismissal for an abuse of discretion. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 (10th Cir. 2007). A district court may dismiss a case *without prejudice* under Rule 41(b) for failure to comply with Rule 8 “without attention to any particular procedures.” *Id.* at 1162.

We see no abuse of discretion here. The main problem with Mr. Pittman’s complaint is that it did not clearly allege what each defendant did or how that action harmed him. And because the complaint left out this vital information, it failed to show that Mr. Pittman is entitled to relief. To state a claim for a violation of his First

² Mr. Pittman represents himself, so we construe his filings liberally. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

Amendment right to free speech, for example, he needed to allege facts showing that the mailroom employees took actions that were not “reasonably related to legitimate penological interests.” *Gee v. Pacheco*, 627 F.3d 1178, 1188 (10th Cir. 2010). But his complaint did not even clearly allege what actions the employees took, let alone allege facts showing those actions were not reasonably related to legitimate penological interests. And to state an equal-protection claim, he needed to allege facts showing that he was treated differently than others who were similarly situated to him. *See Brown v. Montoya*, 662 F.3d 1152, 1172–73 (10th Cir. 2011). But his complaint did not allege that he had been treated differently than anyone else.

In sum, the district court correctly concluded that Mr. Pittman’s complaint did not satisfy Rule 8. And so it did not abuse its discretion when it dismissed this case without prejudice. Because the dismissal was without prejudice, Mr. Pittman remains free to pursue his claims by filing a new complaint that complies with Rule 8.

Disposition

We affirm the district court’s judgment. We grant Mr. Pittman’s motion to proceed on appeal without prepaying costs or fees.

Entered for the Court

Gregory A. Phillips
Circuit Judge