

Seventh Circuit Opinions will return after the new year on Monday, January 6, 2020. Have a wonderful holiday season!

Opinions for the week of December 16 – December 20, 2019

Gregory Urbanek v. Andrew M. Saul No. 19-1394

Argued November 14, 2019 — Decided December 16, 2019

Case Type: Civil

Western District of Wisconsin. No. 18-cv-201 — **Barbara B. Crabb**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*.

ORDER

This appeal arises out of Gregory Urbanek’s pursuit of disability insurance benefits and supplemental security income from the Social Security Administration. Urbanek asserted disability based on several mental and physical impairments. But an Administrative Law Judge (“ALJ”) found him not disabled, and the district court concluded that substantial evidence supported the ALJ’s decision. In this appeal, Urbanek raises a single issue: whether the ALJ properly accounted for his moderate limitations in concentration, persistence, or pace. We conclude that the ALJ did so; and affirm.

Stephanie Olivas v. Andrew M. Saul No. 19-1286

Argued November 14, 2019 — Decided December 16, 2019

Case Type: Civil

Northern District of Illinois, Western Division. No. 17 CV 50197 — **Iain D. Johnston**, *Magistrate Judge*.

Before DANIEL A. MANION, *Circuit Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*.

ORDER

Stephanie Olivas, a 37-year-old woman with multiple chronic conditions, appeals from the district court’s decision to uphold an administrative law judge’s denial of her application for disability insurance benefits. Her appeal is narrow: she argues that the ALJ improperly discounted opinions from two treating physicians. Because the ALJ adequately supported her decision to give little weight to these medical opinions, we affirm.

Dan Proft v. Kwame Raoul No. 18-3475

Argued September 6, 2019 — Decided December 16, 2019

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:18-cv-04947 — **Virginia M. Kendall**, *Judge*.

Before EASTERBROOK, KANNE, and BRENNAN, *Circuit Judges*.

BRENNAN, *Circuit Judge*. A provision of the Illinois Election Code limits how much money entities can contribute to political campaigns. But in some races, Illinois lifts these limits, allowing certain entities to make unlimited campaign contributions and coordinate unlimited spending with candidates. Illinois Liberty PAC, an independent expenditure committee, is not one of these entities; indeed, Illinois bans all independent expenditure committees from making campaign contributions and from coordinating spending with candidates. Plaintiffs Dan Proft and the Illinois Liberty PAC do not attack the entire contribution and coordination ban enforced against independent expenditure committees. Rather, they seek to overturn the ban only when unlimited contributions and unlimited coordinated expenditures are allowed for others. Otherwise, plaintiffs claim, Illinois’s ban violates the First Amendment rights of free speech and free association and the Fourteenth Amendment right of equal protection. Whether a constitutional violation exists here depends on if the contribution and coordination ban is closely drawn to

prevent corruption or the appearance of corruption. Because striking down the ban would increase the risk of corruption and circumvent other election code sections that work to prevent political corruption, we affirm the district court's dismissal of this suit and denial of plaintiffs' motion for a preliminary injunction.

USA v. Aristeo Gallardo Ramirez No. 18-2798

Argued November 13, 2019 — Decided December 16, 2019

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 1:17-cr-00291-1 — **Manish S. Shah**, *Judge*.

Before WILLIAM J. BAUER, *Circuit Judge*; MICHAEL B. BRENNAN, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*.

ORDER

Aristeo Gallardo-Ramirez contests the district court's imposition of a 120-month sentence after he pleaded guilty to one count of conspiracy to sell heroin. He contends that the district court wrongly denied him safety-valve relief under 18 U.S.C. § 3553(f), which would have permitted a shorter sentence, because the government ended the safety-valve proffer early, preventing him from relaying everything he knew about the drug-distribution conspiracy and related criminal conduct. We see the facts differently, however, and conclude that the district court did not clearly err by finding that Gallardo-Ramirez was not entirely forthcoming as required by § 3553(f), and regardless, any such error would be harmless. We therefore affirm.

Timothy Johnson v. Michael Rogers No. 19-1366

ARGUED NOVEMBER 6, 2019 — DECIDED DECEMBER 17, 2019

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:16-cv-02705-JMS-MPB — **Jane Magnus-Stinson**, *Chief Judge*.

Before EASTERBROOK, MANION, and BARRETT, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. In October 2014 Timothy Johnson showed up drunk for an appointment at a rehab clinic. After he threatened a therapist and the clinic's security guard, the clinic called the police. Two officers arrested and handcuffed Johnson. When he told them that he would run away, they sat him on the pavement next to a patrol car. What happened next led to this suit under 42 U.S.C. §1983. The events we describe were captured on video. The video lacks a sound track, but the officers' descriptions about what Johnson said are uncontested, because he was too inebriated to remember much about the encounter....Taking the events as the video depicts them, the district court properly found that Rogers is entitled to qualified immunity. AFFIRMED

NLRB v. University of Chicago Nos. 18-3659 & 19-1146

ARGUED SEPTEMBER 18, 2019 — DECIDED DECEMBER 17, 2019

Case Type: Agency

National Labor Relations Board. No. 13-CA-217957

Before KANNE, HAMILTON, and BARRETT, *Circuit Judges*.

KANNE, *Circuit Judge*. When a group of employees wants to collectively bargain with their employer, but the employer believes the group is ineligible for collective bargaining under the National Labor Relations Act, the two parties may address the dispute in a hearing before the National Labor Relations Board. At the hearing, a party may present evidence only if that evidence would be enough to sustain the party's position. If the Board determines the party's proposed evidence would not sustain its position, then the Board must refuse to accept the evidence. Here, a group of students who worked part time for the University of Chicago Libraries wanted to collectively bargain with their university employer. The

University believed the student group was ineligible for collective bargaining under the Act, and the University wanted to introduce evidence to support this argument at a hearing before the Board. The Board determined that the University's proposed evidence would not sustain the University's position that the students were ineligible for collective bargaining. So the Board did not admit the University's evidence. Challenging that decision, the University petitioned our court for judicial review. The Board cross-applied for enforcement of its order finding the University should have bargained with its student employees. We conclude that the Board's refusal to admit the University's evidence was not an abuse of discretion and did not violate the University's due process rights. We deny the University's petition and grant the Board's cross-application.

Christine Dancel v. Groupon, Inc. No. 19-1831

Argued September 16, 2019 — Decided December 18, 2019

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:18-cv-02027 — **Ronald A. Guzmán**, *Judge*.
Before BAUER, BRENNAN, and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. Is a person's username a part of her identity? That is a complex question, but one that Christine Dancel proposes can be resolved categorically for all usernames and all people. The district court thought otherwise and declined to certify a class because it would have to be decided username-by-username whether each one is an aspect of a given class member's identity, at least as that word is defined by the Illinois Right of Publicity Act (IRPA), 765 ILCS 1075/5. Dancel contends this rejection of her theory was an improper decision on the merits of her and the class's claims, and the court therefore abused its discretion at the class-certification stage. We see no such mistake in the district court's reasoning and affirm the order denying certification.

Henry Horia v. Nationwide Credit & Collection No. 19-1559

ARGUED DECEMBER 12, 2019 — DECIDED DECEMBER 18, 2019

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 17-cv-08355 — **Andrea R. Wood**, *Judge*.
Before BAUER, EASTERBROOK, and ST. EVE, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Nationwide Credit sent Henry Horia a letter seeking to collect a debt owed to GoWlieb Memorial Hospital. By return mail, Horia disputed the validity of this claim. The Fair Debt Collection Practices Act requires a debt collector such as Nationwide Credit that notifies a credit agency, such as Experian, about the debt to reveal whether the claim is disputed. 15 U.S.C. §1692e(8). Horia asserts in this suit that Nationwide Credit notified Experian about the debt but not about the dispute, injuring his credit rating and causing him mental distress....Horia may have difficulty showing that he suffered a marginal injury from Nationwide Credit's second failure to notify Experian that a debt has been disputed. But he is entitled to try. REVERSED AND REMANDED

Ricky Felts v. Andrew M. Saul No. 18-3620

Argued October 2, 2019 — Decided December 18, 2019

Case Type: Civil

Western District of Wisconsin. No. 3:17-cv-00932-slc — **Stephen L. Crocker**, *Magistrate Judge*.
Before WILLIAM J. BAUER, *Circuit Judge*; KENNETH F. RIPPLE, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Ricky Felts, a 64-year-old man suffering from a host of medical problems, both physical and mental, challenges the denial of his applications for social security benefits. He argues that substantial evidence

does not support the administrative law judge's conclusion that his mental impairments were not severe and did not cause any work-related mental limitations. We affirm.

Delores Henry v. Russell Reynolds No. 16-4234

December 18, 2019

Case Type: Prisoner

Central District of Illinois. No. 12-CV-3087 — **Richard Mills**, *Judge*.

ORDER

The petition for rehearing en banc is granted. The opinion and judgment entered by the panel are vacated. A new briefing schedule will be set by further order. Oral argument will be heard on a date to be set also by further order.

Marva Mack v. City of Chicago No. 19-2227

Submitted December 19, 2019 — Decided December 19, 2019

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:16-cv-7807 — **Gary Feinerman**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Marva Mack was fired from her job with the City of Chicago's Department of Aviation after a dispute about payroll-processing paperwork. She sued the City and her former supervisors for age discrimination and retaliation, and the district court entered summary judgment in the defendants' favor. We affirm.

Christopher Washington v. Andrew Saul No. 19-2152

Submitted December 19, 2019 — Decided December 19, 2019

Case Type: Civil

Northern District of Indiana, Fort Wayne Division. No. 1:19-CV-97-HAB — **Holly A. Brady**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Christopher Washington alleges that the Social Security Administration wrongly decided to recover overpayments of social security disability benefits made to him in prison. The district court entered judgment for the Administration. It correctly ruled that Washington failed to exhaust administrative review of that decision, so we affirm.

Ricky Kamdem-Ouaffo v. Tapfin North America Shared Se No. 19-2125

Submitted December 19, 2019 — Decided December 20, 2019

Case Type: Civil

Eastern District of Wisconsin. No. 19-CV-607-JPS — **J. P. Stadtmueller**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Believing that Campbell Soup Company wrongly fired him, Ricky Kamdem-Ouaffo responded with four suits—three in the District of New Jersey, and one in the Eastern District of Wisconsin. In the order that

led to this appeal, the Wisconsin court struck Kamdem-Ouaffo's complaint for violating Federal Rule of Civil Procedure 8 and for duplicating his earlier-filed New Jersey actions. Kamdem-Ouaffo refused to accept the court's invitation to amend his complaint to cure its deficiencies, so the court dismissed his case for failure to prosecute. That exercise of discretion was reasonable, so we affirm.

Alfredo Garcia v. Armor Correctional Health Serv No. 19-1351

Submitted December 19, 2019 — Decided December 19, 2019

Case Type: Prisoner

Eastern District of Wisconsin. No. 17-C-1075 — **Lynn Adelman**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

While held in the Milwaukee County Jail, Alfredo Garcia slipped on water overflowing from his toilet and was knocked unconscious. He regarded the care that he received for his injuries to be insufficient, and so he brought this deliberate-indifference suit against various jail employees; the Milwaukee County Sheriff; and Armor Correctional Health Service, Inc., the private entity contracted to provide medical care at the jail. Both sides moved for summary judgment, and the district court entered judgment for the defendants. We affirm.

Jimmy Baldwin v. Rick Raemisch No. 19-1303

Submitted December 19, 2019 — Decided December 19, 2019

Case Type: Prisoner

Western District of Wisconsin. No. 18-cv-872-jdp — **James D. Peterson**, *Chief Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Jimmy Baldwin sued officials at Stanley Correctional Institution in Wisconsin, alleging that they imposed a year of disciplinary segregation without affording him due process, in violation of the Fourteenth Amendment. He also claimed that the prison's security director maliciously prosecuted him by cooperating with local law enforcement to file a criminal charge against him. The district court dismissed the complaint at screening, and we affirm.

Roscoe Chambers v. James Cross No. 18-3568

Submitted December 19, 2019 — Decided December 19, 2019

Case Type: Prisoner

Eastern District of Illinois. No. 17-cv-996-JPG-RJD — **J. Phil Gilbert**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Roscoe Chambers, a federal prisoner, appeals the entry of summary judgment for prison officials on his claim that they were deliberately indifferent to his serious medical needs. The district court granted the defendants' motion because, among other reasons, Chambers's claims were untimely. Because Chambers filed this suit after the statute of limitations expired, and there is no basis for tolling, we affirm.

Ricky Kamdem-Ouaffo v. Tapfin North America Shared Se No. 19-2125

Submitted December 19, 2019 — Decided December 20, 2019

Case Type: Civil

Eastern District of Wisconsin. No. 19-CV-607-JPS — **J. P. Stadtmueller**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Believing that Campbell Soup Company wrongly fired him, Ricky Kamdem-Ouaffo responded with four suits—three in the District of New Jersey, and one in the Eastern District of Wisconsin. In the order that led to this appeal, the Wisconsin court struck Kamdem-Ouaffo's complaint for violating Federal Rule of Civil Procedure 8 and for duplicating his earlier-filed New Jersey actions. Kamdem-Ouaffo refused to accept the court's invitation to amend his complaint to cure its deficiencies, so the court dismissed his case for failure to prosecute. That exercise of discretion was reasonable, so we affirm.

USA v. Aaron Wyatt No. 19-2044

Submitted December 19, 2019 — Decided December 20, 2019

Case Type: Criminal

Southern District of Illinois. No. 98-CR-40002-JPG-3 — **J. Phil Gilbert**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Aaron Wyatt served a 264-month prison sentence for his role in a drug-distribution conspiracy. Within a month of his release in August 2018, he admitted to violating multiple conditions of his five-year term of supervised release, and after further violations, the probation office petitioned to revoke his supervised release. Based on Wyatt's admission to several violations, including possessing narcotics, the district court sentenced him to twelve months' imprisonment, below the range recommended by the applicable policy statement in the sentencing guidelines....Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.

USA v. Emmanuel Abdon No. 19-1608

Submitted December 19, 2019 — Decided December 20, 2019

Case Type: Criminal

Southern District of Illinois. No. 18-CR-30021-MJR — **Michael J. Reagan**, *Judge*.

Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

A jury found Emmanuel Abdon guilty of two counts of sex crimes: attempted enticement of a minor, and travel with intent to engage in illicit sexual conduct. See 18 U.S.C. §§ 2422(b), 2423(b). The district court imposed a below-Guidelines sentence of 240 months' imprisonment on each count (to be served concurrently) and five years' supervision following his release. Abdon has filed a notice of appeal, but his lawyer asserts that the appeal is frivolous and moves to withdraw from representation. See *Anders v. California*, 386 U.S. 738 (1967). Abdon responded to this motion. See CIR. R. 51(b). Counsel's brief explains the nature of the case and addresses potential issues that this kind of appeal might involve. Because the analysis in counsel's brief appears thorough, we limit our review to the subjects he discusses and to the arguments Abdon raises. See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).... We GRANT counsel's motion to withdraw and DISMISS the appeal.

Only the text of the opinions is used. No editorial comment is added. For back issues or to send a comment, please contact [Sonja Simpson](#).