

Opinions for the week of April 4 - April 8, 2016

Petar Yusev v. Loretta Lynch No. 15-2464

Argued March 2, 2016 — Decided April 4, 2016

Case Type: Agency

Board of Immigration Appeals. Nos. A089-070-635 & A089-070-636

Before DIANE P. WOOD, *Chief Judge*; WILLIAM J. BAUER, *Circuit Judge*; MICHAEL S. KANNE, *Circuit Judge*.

ORDER

An immigration judge denied an application for asylum and withholding of removal from Petar Borisov Yusev and Katerina Georgieva Yuseva, a married couple from Bulgaria. The Board of Immigration Appeals upheld that decision. Rather than petition this court for review, Yusev and Yuseva asked the Board to reconsider its decision. Their motion, which did not identify a legal or factual error in the Board's decision, was denied, prompting the case now before us. Essentially, the petitioners are trying to work around their failure to seek review of the Board's initial decision, which they cannot do. And as far as their motion to reconsider, the Board did not abuse its discretion in denying it... Accordingly, we DENY the petitions for review.

Brian Boulb v. USA No. 15-1383

Argued February 25, 2016 — Decided April 4, 2016

Case Type: Prisoner

Southern District of Illinois No. 14-cv-00737 — **J. Phil Gilbert**, *Judge*.

Before BAUER, MANION, and KANNE, *Circuit Judges*.

KANNE, *Circuit Judge*. Brian Boulb filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 more than one year and four months after he had been sentenced and judgment had been entered against him. Relying on § 2255's one-year statute of limitations, the district court dismissed his petition as untimely without holding an evidentiary hearing. On appeal, Boulb contends the district court erred in dismissing his petition without conducting an evidentiary hearing. The district court, according to Boulb, should have held a hearing to take evidence and determine if the limitations period was equitably tolled on account of his purported mental incompetence. Finding no fault with the district court's decision, we affirm.

USA v. Adolph Common

Argued January 14, 2016 — Decided April 4, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 1:12-CR-893 — **Robert W. Gettleman**, *Judge*.

Before FLAUM and RIPPLE, *Circuit Judges*, and PETERSON, *District Judge*.

FLAUM, *Circuit Judge*. In 2014, Adolph Common was convicted of unlawful possession of a firearm by a felon in violation of 18 U.S.C. § 922(g)(1). The arresting officers claim that they saw a gun fall out of Common's pants and that Common confessed to possessing the gun. Common denies having the gun and making the confession. He alleges that the officers planted the gun on him and failed to provide *Miranda* warnings. The district court denied Common's motion to suppress his alleged confession. After two mistrials, a jury convicted Common. Common appeals, challenging the denial of his motion to suppress, the admission of the testimony of a finger-print examiner, and the denial of his motion for a new trial based on claims of prosecutorial misconduct. We affirm.

Anthony J. Peraica v. Village of McCook No. 15-3131

Case Type: Civil

Argued February 25, 2016 — Decided April 5, 2016

Northern District of Illinois, Eastern Division. No. 1:10-cv-7040 — **Milton I. Shadur**, *Judge*.

Before WILLIAM J. BAUER, *Circuit Judge*; DANIEL A. MANION, *Circuit Judge*; MICHAEL S. KANNE, *Circuit Judge*.

ORDER

This civil-rights action arises out of plaintiff Anthony Peraica's arrest for destroying his opponent's campaign sign in McCook, Illinois, when Peraica was running for reelection as a Cook County commissioner. Following his arrest, Peraica was convicted in state court of misdemeanor destruction of property. He also brought this civil suit against the Village of McCook, Jeffrey Tobolski, seven named police officers, and various unnamed police defendants. After the federal district court dismissed Peraica's complaint on issue-preclusion grounds, he appealed to this court. We affirm.

Arlene Nunez v. Indiana Department of Child No. 15-2800

Argued January 22, 2016 — Decided April 5, 2016

Case Type: Civil

Northern District of Indiana, Hammond Division. No. 2:14-cv-00293-JD-JEM — **Jon E. DeGuilio**, *Judge*.

Before BAUER, FLAUM, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. The Indiana Department of Child Services ("DCS") oversees state child protection services, child support enforcement, and the Indiana foster care system. For nine years, plaintiffs Arlene Nuñez and Veronica Martinez worked as investigators in the DCS Gary office. On August 20, 2014, Nuñez and Martinez sued the DCS for violations of the overtime provisions of the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207(a). They allege that DCS required them to work during lunch and to remain on call after their shifts, despite being paid for only forty hours per week. Plaintiffs seek injunctive and declaratory relief, damages, and attorney fees... The judgment of the district court is AFFIRMED.

Asher Hill v. Jerry Snyder No. 15-2607

Submitted March 18, 2016 — Decided April 5, 2016

Case Type: Prisoner

Southern District of Indiana, Indianapolis Division No. 1:13-cv-68-RLY-MJD — **Richard L. Young**, *Chief Judge*.

Before BAUER, EASTERBROOK, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. Asher Hill, an Indiana inmate, sued prison staff under 42 U.S.C. § 1983, alleging that they had violated the Eighth Amendment by failing to protect him from inmates who threw feces at him on four occasions. The district court granted summary judgment for defendants on the ground that Hill had not exhausted administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). We conclude that summary judgment was improper for three of the incidents, so we vacate the judgment in part and remand the case for further proceedings.

Robert Siragusa v. Arturo Collazo No. 15-2324

Argued January 21, 2016 — Decided April 5, 2016

Case Type: Bankruptcy from District Court
Northern District of Illinois, Eastern Division. No. 14 C 5008 — **Jorge L. Alonso**, *Judge*.
Before POSNER, EASTERBROOK, and KANNE, *Circuit Judges*.

POSNER, *Circuit Judge*. Arturo Collazo was (maybe still is) a real estate developer engaged in buying apartment buildings, mainly although not exclusively in Chicago, and converting the apartments to condominiums that he and his partner, Jon Goldman, would then sell. In 2012 Collazo petitioned for bankruptcy, seeking to discharge his debts to, among others, Dr. Robert J. Siragusa (a physician), Siragusa's employee benefit trust, and Siragusa's three adult children. All five Siragusas joined in filing an adversary action in the bankruptcy proceeding, contending that Collazo was not entitled to a discharge of his debts to them. The bankruptcy judge, however, seconded by the district judge (to whom the Siragusas appealed the adverse rulings of the bankruptcy judge on their claims), allowed all but one of the Siragusas' claims to be discharged. All the Siragusas except daughter Julie appeal to us. The one claim the bankruptcy and district judges held not to be discharged is Collazo's debt to two of Dr. Siragusa's children, Dana and Robert Joseph, concerning a development project in Arizona. Collazo has not appealed that ruling... Dana's claim that the transfer of unsold Chicago units to new LLCs was fraudulent, and Dana's and Robert Joseph's claim for a money judgment, are therefore remanded to the bankruptcy court, with the consequence that the judgment of the district court is AFFIRMED IN PART, AND REVERSED AND REMANDED IN PART.

USA v. Giovanni Collazo-Santiago Nos. 15-2153 and 15-2154

Submitted March 18, 2016 — Decided April 5, 2016

Case Type: Criminal

Western District of Wisconsin. Nos. 3:12-cr-00041-wmc and 3:12-cr-00136-wmc — **William M. Conley**, *Chief Judge*.

Before WILLIAM J. BAUER, *Circuit Judge*; FRANK H. EASTERBROOK, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Giovanni Collazo-Santiago, a federal prisoner, is serving concurrent sentences in two cases, one for a drug conviction and the other for a firearm conviction. He sought and received sentence reductions in both cases under 18 U.S.C. § 3582(c)(2). But the district court later increased the sentence in the drug case, partially erasing the reduction it had granted earlier. Because the district court lacked authority to erase that sentence reduction, we vacate in part and remand.

Laura Jennings v. City of Indianapolis No. 16-1110

Submitted March 30, 2016 — Decided April 6, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis, Division. No. 1:16-cv-00004-TWP-MJD — **Tanya Walton Pratt**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; FRANK H. EASTERBROOK, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Appellant Laura Jennings has filed numerous cases in this court and in the district courts of this circuit—enough to earn herself a sanctions order barring her from filing any other litigation in any court in the Seventh Circuit until she has paid all the fees she owes to the district courts and to this court. See *Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995) (per curiam). But she filed the present appeal before the *Mack* order was entered, and so we will resolve it on the merits based on the documents she has already filed... Jennings filed nothing in response to the court's invitation, and so on January 25, 2016, it entered a judgment under Rule 58 dismissing the action. Jennings has appealed from that order, but her appellate brief neither corrects the flaws that the district court identified nor does it

make a coherent argument showing why reversal might be appropriate. We therefore AFFIRM the judgment of the district court.

Nora Chaib v. Geo Group, Incorporated No. 15-1614

Argued January 12, 2016 — Decided April 6, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 13-cv-318 — **Tanya Walton Pratt**, *Judge*.
Before BAUER and HAMILTON, *Circuit Judges*, and PETERSON, *District Judge*.

PETERSON, *District Judge*. Nora Chaib worked for The GEO Group, Inc., a private company that managed a correctional facility for the State of Indiana. She was fired for “unbecoming conduct” because she improperly extended her medical leave following a workplace injury. Chaib sued GEO Group under Title VII, 42 U.S.C. § 2000e *et seq.*, and 42 U.S.C. § 1981, alleging discrimination on the basis of sex, race, and national origin, and retaliation for her reports of workplace discrimination. Chaib also alleged, under Indiana law, that GEO Group had retaliated against her for filing a workers’ compensation claim. The district court granted summary judgment in favor of GEO Group, concluding that Chaib had failed to present evidence of discrimination or retaliation sufficient to support a reasonable jury verdict. We affirm.

LSP Transmission Holdings, LLC v. FERC Nos. 14-2153, 14-2533, 15-1316

Argued February 8, 2016 — Decided April 6, 2016

Case Type: Agency

Petitions for Review of Orders of the Federal Energy Regulatory Commission.

Nos. ER13-187-000, ER13-187-001, ER13-187-002, ER13-187-003, ER13-187-004, ER13-186-000, ER13-186-001, ER13-89-000, ER13-101-000, ER13-101-001, ER13-84-000, ER13-95-000

Before POSNER, EASTERBROOK, and HAMILTON, *Circuit Judges*.

POSNER, *Circuit Judge*. We have consolidated for decision three closely related cases challenging rulings by the Federal Energy Regulatory Commission. All involve what are called “rights of first refusal,” which in the present context mean rights to have a first crack at constructing an electricity transmission project—that is, having the opportunity to build it without having to face competition from other firms that might also like to build it. The electrical companies involved in these cases are all members or potential members of the vast Regional Transmission Organization called MISO, an acronym for Midcontinent Independent System Operator. MISO monitors and manages the electricity transmission grid in its region (which embraces a number of mid-western and southern states, plus the Canadian province of Manitoba, all as shown in the map below), by balancing the load so that lines don’t carry too much (or too little) power, making sure that the power can be delivered without tripping safeguards that block damage to other lines, setting competitive prices for transmission services, and planning and supervising the expansion of the electrical transmission system throughout its vast region. See, e.g., “Midcontinent Independent System Operator,” https://en.wikipedia.org/wiki/Midcontinent_Independent_System_Operator (visited March 31, 2016, as were the other websites cited in this opinion)... To conclude, the petitions for review are DENIED.

USA v. Adam Hill No. 15-3090

Submitted March 10, 2016 — Decided April 7, 2016

Case Type: Criminal

Southern District of Illinois. No. 3:14-cr-30207-NJR-1 — **Nancy J. Rosenstengel**, *Judge*.
Before WOOD, *Chief Judge*, and POSNER and ROVNER, *Circuit Judges*.

POSNER, *Circuit Judge*. The defendant pleaded guilty to receiving child pornography and was sentenced to 10 years in prison plus a fine and restitution and 5

years of supervised release. He filed a notice of appeal, but his lawyer, a federal public defender, asserting that the appeal is frivolous—in which event it should be dismissed without ado— has filed an *Anders* brief asking us for leave to withdraw as the defendant's lawyer and also advising us that the defendant does not wish to challenge his guilty plea. See *Anders v. California*, 386 U.S. 738 (1967)... So, to conclude, if the limited remand that we're ordering results in a determination that the defendant knowingly waived all challenges to the conditions of supervised release, we will grant the *Anders* motion and that will be the end of the case. If instead the determination is that he did not knowingly waive all challenges to the conditions, the case will again come before us and he will need to decide (and through his counsel advise us of the decision) whether or not to challenge the conditions, since a successful challenge, followed by a remand for resentencing, will leave the judge free to impose a longer, as well as in the alternative a shorter, prison sentence. For now, however, we need only remand the case for a determination of whether the defendant knowingly waived all objections to the conditions of supervised release imposed by the district court. The defendant's lawyer shall continue to represent the defendant on remand, and is ordered to file a status report with this court within 14 days of the district court's ruling on remand. CASE REMANDED WITH DIRECTIONS

Connie S. Maddox v. State Auto Property & Casualty No. 15-2641

Submitted March 28, 2016 — Decided April 7, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:13-cv-01551-RLY-DML — **Richard L. Young**, *Chief Judge*.

Before DIANE P. WOOD, *Chief Judge* MICHAEL S. KANNE, *Circuit Judge* DIANE S. SYKES, *Circuit Judge*.

ORDER

Connie Maddox appeals from the dismissal at summary judgment of her discrimination suit against her former employer, State Auto Property & Casualty

Insurance Company. Because Maddox neither established a prima facie case of discrimination nor adequately supported her state-law theories, we affirm the

district court's judgment. Except as noted, the following facts are not disputed. State Auto hired Maddox in 2009 to work as a claims adjuster in Indianapolis, Indiana. Maddox twice sought promotions in 2011, but her supervisor did not recommend her for either position because of concerns about carelessness and

poor customer relations. Following a lackluster annual review in February 2012, Maddox was placed on a 90-day performance-improvement plan and warned

that she could be fired unless she corrected the deficiencies... Maddox's failure to respond properly to State Auto's statement of material facts was also fatal

to her state-law claims. To succeed on her claim of retaliatory discharge, Maddox needed evidence that State Auto fired her for seeking worker's compensation, see *Hudson v. Wal-Mart Stores, Inc.*, 412 F.3d 781, 785 (7th Cir. 2005); *Frampton v. Central Ind. Gas Co.*, 297 N.E.2d 425, 428 (Ind. 1973),

but Maddox did not apply for worker's compensation until six months *after* State Auto had eliminated her position. As for her claim of intentional infliction of emotional distress, Maddox needed evidence that State Auto intentionally or recklessly caused her severe emotional distress through outrageous conduct.

See *Alexander v. United States*, 721 F.3d 418, 424 (7th Cir. 2013); *Williams v. Tharp*, 914 N.E.2d 756, 769 n.4 (Ind. 2009). She presented no such evidence, however. We therefore AFFIRM the judgment of

the district court. Just two days later Maddox requested and received approval to take leave under the Family and Medical Leave Act. She explained that she had developed posttraumatic stress disorder after suddenly recalling a repressed memory of a traffic accident she had witnessed decades earlier. Maddox's FMLA leave expired in May 2012, and she returned to work without any medical restrictions, at which time the

90-day remedial period resumed.

USA v. Jorge Rivas-Herrera No. 15-2384

Submitted March 28, 2016 — Decided April 7, 2016

Case Type: Criminal

Central District of Illinois. No. 4:13-cr-40066-002 — **Sara Darrow**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*.

ORDER

Jorge Rivas-Herrera was found guilty by a jury of conspiracy to possess and distribute, and possession with intent to distribute, cocaine and marijuana. See 21 U.S.C. §§ 846, 841(a). The district court sentenced him to 60 months' imprisonment, the statutory minimum, because the jury found that both counts involved at least 500 grams of cocaine. See *id.* § 841(b)(1)(B). Rivas-Herrera filed a notice of appeal, but his attorney asserts that the appeal is frivolous and seeks to withdraw. See *Anders v. California*, 386 U.S. 738 (1967). Rivas-Herrera opposes counsel's motion and seeks a new trial. See CIR. R. 51(b). Counsel's supporting brief explains the nature of the case and discusses points that could be expected to arise on appeal, and because his analysis appears to be thorough, we limit our review to the subjects he discusses and Rivas-Herrera's opposing arguments. See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014); *United States v. Wagner*, 103 F.3d 551, 553 (7th Cir. 1996)... Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.

Mary Janetos v. Fulton Friedman & Gullace, LLP No. 15-1859

Argued January 12, 2016 — Decided April 7, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 12 C 1473 — **Thomas M. Durkin**, *Judge*.

Before BAUER and HAMILTON, *Circuit Judges*, and PETERSON, *District Judge*.

HAMILTON, *Circuit Judge*. Section 1692g(a)(2) of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, requires a debt collector to disclose to a consumer "the name of the creditor to whom the debt is owed," either in its initial communication with the consumer or in a written notice sent within the next five days. When defendant Fulton Friedman & Gullace, LLP set out to collect debts from the plaintiffs on behalf of creditor Asset Acceptance, LLC, it sent them letters that identified Asset Acceptance as the "assignee" of the original creditors but said that the plaintiffs' accounts had been "transferred" from Asset Acceptance to Fulton. Nowhere in the letters did Fulton explicitly identify Asset Acceptance as the current creditor. Plaintiffs brought suit alleging that Fulton had violated §§ 1692e, 1692e(10), and 1692g(a)(2) of the Act by failing to disclose the current creditor's name and that Asset Acceptance was vicariously liable for Fulton's violations. The district court granted defendants' motion for summary judgment. The court held that the letters were ambiguous as to the identity of the current creditor but that plaintiffs needed to present extrinsic evidence of confusion, like a consumer survey, to survive summary judgment. The court also held that even if plaintiffs had presented such evidence, their claims would still fail because the ambiguity about the identity of the current creditor was immaterial, meaning it would neither contribute to nor undermine the Act's objective of providing "information that helps consumers to choose intelligently." See *Hahn v. Triumph Partnerships LLC*, 557 F.3d 755, 757–58 (7th Cir. 2009). We reverse. The district court correctly found that the letters were unclear, but it erred in finding that additional evidence of confusion was necessary to establish a § 1692g(a)(2) violation. Section 1692g(a) requires debt collectors to disclose specific information, including the name of the current creditor, in certain written notices they send to consumers. If a letter fails to disclose the required information clearly, it violates the Act, without further proof of confusion. Section 1692g(a) also does not have an additional materiality requirement, express or implied. Congress instructed debt collectors to disclose this information to consumers, period, so these validation notices violated § 1692g(a). Finally, because Asset Acceptance is itself a debt collector, it is liable for the violations of the Act by its agent. We remand this case to the district court for further proceedings consistent with this opinion.

Christopher Hickson v. AT&T Services, Incorporated No. 15-1575

Submitted March 28, 2016 — Decided April 7, 2016

Case Type: Civil

Central District of Illinois. No. 13-3206 — **Colin S. Bruce**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*.

ORDER

Christopher Hickson appeals the grant of summary judgment for his former employer, AT&T Services, in this diversity suit asserting that he was fired based on a prior arrest. See 775 ILCS 5/2-103(A). We affirm.

USA v. Kirk Acrey No. 15-3061

Submitted March 21, 2016 — Decided April 8, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 07 CR 211 — **Amy J. St. Eve**, *Judge*.

Before FRANK H. EASTERBROOK, *Circuit Judge*; ANN CLAIRE WILLIAMS, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

After the Sentencing Commission lowered the drug table by two levels, and made this change retroactive (see Amendment 782), Kirk Acrey asked the district court to reduce his sentence. The judge denied his motion, explaining that Amendment 782 had not changed the Guideline range under which Acrey was sentenced. The judge observed that Acrey's range came from the career-offender Guideline, not from the drug table, and that the Sentencing Commission had not changed the career-offender Guideline...

Because the career-offender Guideline is the "applicable guideline range" for Acrey notwithstanding the district judge's reference to the drug table in his sentencing, he is ineligible for a lower sentence under Amendment 782. AFFIRMED

USA v. David Weimert No. 15-2453

Argued January 22, 2016 — Decided April 8, 2016

Case Type: Criminal

Western District of Wisconsin. No. 3:14-cr-00022-jdp-1 — **James D. Peterson**, *Judge*.

Before BAUER, FLAUM, and HAMILTON, *Circuit Judges*.

FLAUM, *Circuit Judge*, dissenting.

HAMILTON, *Circuit Judge*. In the midst of the 2008–09 financial crisis, a Wisconsin bank called AnchorBank was struggling to stay above water. Under pressure to find cash to pay its own lenders, the bank's president told vice president David Weimert to try to sell the bank's share in a commercial real

estate development in Texas. Weimert, who is the defendant and appellant in this criminal wire fraud case, successfully arranged a sale that exceeded the bank's target price by about one third. The deal also relieved the bank of a liability of twice the sale price. Given the version of the facts we must accept for this appeal, however, Weimert saw an opportunity to insert himself into the deal personally. He persuaded two potential buyers that he would be a useful partner for them. Both buyers included in their offer letters a term having Weimert buy a minority interest in the property. The bank agreed. It also agreed to pay Weimert an unusual bonus to enable him to buy the minority interest. We must also assume that the successful buyer, at least, would have been willing to go forward without Weimert as a partner, and that Weimert deliberately misled his board and bank officials to believe that the successful buyer would not close

the deal if he were not included as a minority partner. The government prosecuted Weimert for wire fraud on the theory that his actions added up to a scheme to obtain money or property by fraud, and the jury convicted him on five of six counts of wire fraud under 18 U.S.C. § 1343. We reverse and order judgment

of acquittal. Federal wire fraud is an expansive tool, but as best we can tell, no previous case at the appellate level has treated as criminal a person's lack of candor about the negotiating positions of parties to a business deal. In commercial negotiations, it is not unusual for parties to conceal from others their true goals, values, priorities, or reserve prices in a proposed transaction. When we look closely at the evidence, the only ways in which Weimert misled anyone concerned such negotiating positions. He led the successful buyer to believe the seller wanted him to have a piece of the deal. He led the seller to believe the buyer insisted he have a piece of the deal. All the actual terms of the deal, however, were fully disclosed and subject to negotiation. There is no evidence that Weimert misled anyone about any material facts or about promises of future actions. While one can understand the bank's later decision to fire Weimert when the deception about negotiating positions came to light, his actions did not add up to federal wire fraud. Weimert is entitled to judgment of acquittal. We order his prompt release from federal prison, on the stated terms of supervised release in his sentence, pending issuance of our mandate.

Julio Estrada-Hernandez v. Loretta E. Lynch No. 15-2336

Argued March 2, 2016 — Decided March 17, 2016 — Re-issued as Opinion April 8, 2016

Case Type: Agency

Board of Immigration Appeals. No. A091-335-563

Before WOOD, *Chief Judge*, and BAUER and KANNE, *Circuit Judges*.

PER CURIAM. Julio Estrada-Hernandez is a 34-year-old Mexican citizen who has been removed from the United States as an alien convicted of controlled-substance offenses, a firearm offense (an aggravated felony), and crimes involving moral turpitude. See 8 U.S.C. § 1227(a)(2). First an immigration judge and then the Board of Immigration Appeals rejected his efforts to avoid removal, and so he has now turned to this court for relief. We find no reason to upset the BIA's decision, however, and so we deny his petition for review.

David Bentz v. Marcus Hardy No. 15-1344

Submitted March 28, 2016 Decided April 8, 2016

Case Type: Prisoner

Northern District of Illinois, Eastern Division. No. 12 C 10426 **Sharon Johnson Coleman**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*.

ORDER

For nearly half a year David Bentz, an Illinois inmate, was housed in a segregation cell at Stateville Correctional Center under conditions that, if Bentz is believed, were deplorable. He sued the warden, an assistant warden, and several guards under 42 U.S.C. § 1983, claiming that the conditions were cruel and unusual and that these defendants were responsible. Bentz brought additional claims against other defendants, but at screening, see 28 U.S.C. § 1915A, the district court directed Bentz to file separate lawsuits if he wished to pursue claims unrelated to the conditions in his segregation cell. Bentz contends that the district court abused its discretion by doing so, but we reject this argument. See *Wheeler v. Wexford Health Sources, Inc.*, 689 F.3d 680, 683 (7th Cir. 2012) (“A litigant cannot throw all of his grievances, against dozens of different parties, into one stewpot.”); *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (explaining that “unrelated claims against different defendants belong in different suits”).¹ The district court granted summary judgment for the defendants, reasoning that Bentz had “experienced considerable unpleasantness” but “suffered no physical harm.” We reject this view of the evidence and remand for further proceedings... A jury should have been permitted to decide if the conditions that Bentz endured for six months at Stateville constituted cruel and unusual punishment. That claim must be remanded. We have reviewed Bentz's other arguments, and none has merit. The judgment in favor of Marcus Hardy, Randy Pfister, Louis Kovach, and Anthony Robinson is VACATED, and the case is REMANDED for further proceedings consistent with this decision. The judgment in favor of Cynthia Harris is AFFIRMED.

Kevin Dixon v. Cook County, Illinois No. 13-3634

Argued October 26, 2015 — Decided April 8, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 09 C 6976 — **Thomas M. Durkin**, *Judge*.
Before WOOD, *Chief Judge*, and BAUER and SYKES, *Circuit Judges*.

WOOD, *Chief Judge*. In September 2008 Kevin Dixon was sent to the Cook County jail as a pretrial detainee. A month later, he developed severe and persistent pain in his back and abdomen. In early December, he had a CT scan that revealed a paratracheal mass. Over the next few weeks, the mass grew rapidly. Medical personnel at the jail were aware of the problem, but they accused Dixon of malingering, gave him over-the-counter analgesics, and ordered him to seek psychiatric care. By January 5, 2009, Dixon's condition had deteriorated severely. He was finally taken to Stroger Hospital, where he was diagnosed with lung cancer. He died two months later. Acting in her capacity as the Independent Administrator of Dixon's Estate, Lula Dixon (Dixon's mother) sued Cook County, as well as Dr. Katina Bonaparte and Nurse New-world Eboigbe, who had overseen Dixon's care at the jail's Cermak Acute Care Facility. (We refer to plaintiff as Lula, and to her son as Dixon. Lula also sued several corrections officers, but the district court dismissed her claims against them and she has not appealed from that ruling.) Lula asserted claims under 42 U.S.C. § 1983 for deliberate indifference to Dixon's serious medical condition in violation of the Eighth and Fourteenth Amendments to the Constitution, and state-law claims for intentional infliction of emotional distress. In response to the defendants' motions, the district court dismissed the claims against defendants Bonaparte and Eboigbe under Federal Rule of Civil Procedure 12(b)(6); it later granted summary judgment in Cook County's favor, and this appeal followed... The judgment of the district court is therefore REVERSED and the case is remanded for further proceedings consistent with this opinion.

USA v. Salvador Navarro No. 12-2606

Argued December 8, 2014 — Decided October 27, 2015, as amended on rehearing April 8, 2016

Case Type: Criminal

Southern District of Illinois. No. 11-CR-30046 — **Michael J. Reagan**, *Chief Judge*.
Before BAUER and HAMILTON, *Circuit Judges*, and ELLIS, *District Judge*.

ELLIS, *District Judge*. Defendant-Appellant Salvador Guadalupe Navarro ("Navarro") pleaded guilty to and was convicted of one count of conspiracy to possess with intent to distribute more than five kilograms of cocaine. In the plea agreement, the government and Navarro both agreed to refrain from seeking a departure from the sentencing guide- lines and to recommend a sentence within the guidelines range as determined by the district court. At sentencing, the district court rejected an aggravated role enhancement under U.S.S.G. § 3B1.1 and determined that the applicable guidelines range was 188 to 235 months in prison. At that point, the government argued in favor of an upward departure from the guidelines suggested in Application Note 2 to U.S.S.G. § 3B1.1(b) and additionally recommended an above-guidelines sentence of 320 months. Navarro voiced no objection, however, to this breach of the plea agreement by the government. Indeed, the district court departed upward and imposed a sentence of 262 months. Navarro now appeals his sentence, arguing that the government's breach of the plea agreement constitutes plain error warranting resentencing. We agree with Navarro and reverse and remand for resentencing.

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](#).