Opinions for the week of April 13 – April 17, 2020

Sherry Walker v. Children's Hospital of Wisconsin No. 19-3385
Submitted April 10, 2020 — Decided April 13, 2020
Case Type: Civil
Eastern District of Wisconsin. No. 17-C-0583 — **Lynn Adelman**, *Judge*.
By the Court

ORDER
The Children's Hospital of Wisconsin mandated that Sherry Walker attend a counseling program because her baseless accusations against her coworkers eroded the trust that was essential to office collaboration. After she refused to let Children's verify her attendance in the program, it fired her. Walker sued Children's for disability and race discrimination, and the district court entered summary judgment for the hospital. Because no reasonable juror could find that the firing was unlawful, we affirm.

Kevin Martin v. John Galipeau No. 19-2761
Submitted April 10, 2020 — Decided April 13, 2020
Case Type: Prisoner
Southern District of Indiana, Terre Haute Division. No. 2:18-cv-00429-JMS-DLP — **Jane Magnus-Stinson**, *Chief Judge*.
Before MICHAEL S. KANNE, *Circuit Judge* ILANA DIAMOND ROVNER, *Circuit Judge* DAVID F. HAMILTON, *Circuit Judge*

ORDER
Kevin Martin, an Indiana prisoner, was charged with making a threat. A disciplinary hearing officer found him guilty and revoked 60 days of good-time credit. After exhausting his administrative remedies, Martin filed a petition for a writ of habeas corpus, *see* 28 U.S.C. § 2254, arguing that the disciplinary proceedings did not comport with due process because his conviction was not supported by sufficient evidence and he was wrongly denied evidence. The district court denied Martin's petition. Because some evidence supports Martin's disciplinary conviction, and the evidence he requested could not have helped his defense, we affirm.

USA v. Dane Phenegar No. 19-1984
Submitted April 10, 2020 — Decided April 13, 2020
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 1:17-CR-00521(1) — **Manish S. Shah**, Judge.
Before MICHAEL S. KANNE, Circuit Judge; ILANA DIAMOND ROVNER, Circuit Judge; DAVID F. HAMILTON, Circuit Judge.

ORDER
Dane Phenegar pleaded guilty to bank robbery in violation of 18 U.S.C. § 2113(a) and was sentenced as a career offender, see U.S.S.G. § 4B1.1(a), to a below-guidelines sentence of 108 months. Phenegar appealed, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. See Anders v. California, 386 U.S. 738 (1967). Phenegar did not respond to counsel's brief, see CIR. R. 51(b), which explains the nature of the case and addresses the potential issues that an appeal of this kind might involve. Because counsel's brief appears thorough, we limit our review to the subjects he discusses… We GRANT the motion to withdraw and DISMISS the appeal.

Jason Douglas v. Bethany C. Price No. 19-1868
Argued January 30, 2020 — Decided April 13, 2020
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 14 C 1741 — **Gary Feinerman**, *Judge*.
Before BAUER, KANNE, and SYKES, *Circuit Judges*.

SYKES, *Circuit Judge*. Appellant Bethany Price objected to a proposed class-action settlement, but the district judge ruled that she was not a class member and she did not contest that ruling. Price then sought attorney's fees and an incentive award for objecting. The judge denied her requests because as a nonclass member, she had no standing to object or to receive fees or an award. Price appeals the denial of her fee and award requests, arguing that nonclass members can be compensated for objecting. Because Price does not challenge the ruling that she is not a class member, we conclude that she is not a party and lacks standing to appeal. Thus we dismiss the appeal for lack of appellate jurisdiction.

Gerald Winfield v. Stephanie Dorethy No. 19-1547
Argued January 7, 2020 — Decided April 13, 2020
Case Type: Prisoner
Northern District of Illinois, Eastern Division. No. 1:10-cv-04878 — **Sharon Johnson Coleman**, *Judge*.
Before BRENNAN, SCUDDER, and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. Gerald Winfield confessed to police that he shot Jarlon Garrett. Based on that confession, a judge on the Circuit Court of Cook County convicted Winfield of attempted murder. Winfield was also accused of killing Dominick Stovall in the same shooting, but the trial judge acquitted him of that charge because no credible witness had placed Winfield at the scene of the crime and his confession did not mention Stovall. The judge rejected Winfield's argument that his confession had been coerced, as well as his half-hearted alibi defense, and sentenced him to thirty years' imprisonment. In his direct appeal, Winfield's new counsel raised one unsuccessful argument—that the judge had abused his discretion at sentencing. These appeals require us to consider the performance of Winfield's trial and appellate counsel. The Illinois state courts, on post-conviction review, concluded that trial counsel's presentation of Winfield's alibi was not so deficient that it violated the Constitution, but they did not address the performance of appellate counsel to any meaningful degree. The district court, therefore, applied the stringent and deferential standard of the Antiterrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. § 2254(d), to Winfield's claim that he received ineffective assistance of trial counsel and denied that part of his petition for writ of habeas corpus. On the matter of appellate counsel, the district court concluded that AEDPA did not apply because the claim had not been "adjudicated on the merits in State court," *id.*, but had instead been overlooked. It considered the claim without any deference to the state courts' denial of relief. Through that lens, and although it believed it to be a close case, the court found appellate counsel had rendered ineffective assistance by omitting an argument that there was insufficient evidence to convict because Winfield's confession was uncorroborated. Both parties have appealed. The state argues that the district court erred in granting relief on the appellate counsel claim; Winfield contends that the court erred in denying relief on the trial counsel claim. We affirm the judgment in part and reverse it in part, as we conclude that Winfield is not entitled to habeas corpus relief under either theory.

Rashun Singleton v. Amita Health No. 19-1060
Submitted April 10, 2020 — Decided April 13, 2020
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 17 C 4514 — **Robert W. Gettleman**, *Judge*.
Before MICHAEL S. KANNE, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge.*

ORDER

Rashun Singleton participated in a settlement conference with her former employer, Amita Health, to resolve her discrimination claims. After stating on the record that the parties had reached an agreement, Singleton later argued to the district court that she never validly agreed to settle. The district court permissibly determined that she knowingly and voluntarily entered into the agreement and granted Amita Health's motion to enforce the settlement by dismissing this suit. We affirm.

USA v. Michael Chaparro No. 18-2513
Argued December 11, 2019 — Decided April 13, 2020
Case Type: Criminal
Northern District of Illinois, Western Division. No. 3:16-cr-50010-1 — **Frederick J. Kapala**, *Judge*.
Before FLAUM, HAMILTON, and BARRETT, *Circuit Judges*.

HAMILTON, *Circuit Judge*. A jury found Michael Chaparro guilty on three felony charges for viewing and transporting child pornography. The charges arose from three crimes separated by significant gaps in time: viewing child pornography on a hard drive in July 2013, transmitting child pornography files over the Internet in August 2014, and viewing child pornography on a smartphone in November 2014. Chaparro was sentenced to three concurrent prison terms of 210 months each. On appeal he challenges his convictions on three distinct grounds: the sufficiency of the evidence that he was the person using the electronic devices; the admission at trial of a statement that he made to Pretrial Services; and allegedly improper remarks by the prosecutor during rebuttal… It appears that, without Counts One and Three, Count Two might have carried a substantially lower offense level. Thus, if the government declines to retry Chaparro, he is still entitled to resentencing on Count Two with a new guideline calculation. The convictions as to Count One and Count Three of the indictment are REVERSED, and the sentence on Count Two is vacated. The case is remanded to the district court for a new trial on Counts One and Three and/or resentencing on Count Two in a manner consistent with this opinion.

Clarence Jackson v. Andrew Saul No. 19-3021
Submitted April 10, 2020 — Decided April 14, 2020
Case Type: Civil
Central District of Illinois. No. 2:18-cv-02257-CSB-EIL — **Colin S. Bruce**, *Judge*.
Before MICHAEL S. KANNE, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge.*

ORDER
Clarence Jackson challenges the Social Security Administration's decision to recover $1,270.92 in overpaid supplemental security income. The district court upheld the agency's decision. Because Jackson does not contest that he was overpaid and that he was at least partially at fault for the overpayment, we affirm.

Davin Hackett v. City of South Bend No. 19-2574
Argued January 15, 2020 — Decided April 16, 2020
Case Type: Civil
Northern District of Indiana, South Bend Division. No. 3:17-cv-00278-RLM — **Robert L. Miller, Jr.**, *Judge*.
Before BAUER, EASTERBROOK, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. Davin Hackett was a police officer for the City of South Bend. He asserts that the city discriminated and retaliated against him in violation of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 *et seq*. The district court granted summary judgment in favor of the city. On appeal, Hackett raises a new hostile work environment claim. Because

this new argument was forfeited and Hackett fails to confront the grounds for the district court's decision, we affirm.

USA v. Dustin Caya No. 19-2469
Argued December 2, 2019 — Decided April 16, 2020
Case Type: Criminal
Western District of Wisconsin. No. 18-cr-108-wmc — **William M. Conley**, *Judge*.
Before BAUER, EASTERBROOK, and SYKES, *Circuit Judges*.

SYKES, *Circuit Judge*. Dustin Caya was indicted on drug- trafficking and firearms charges based on evidence found in his home during a search conducted on the authority of section 302.113(7r) of the Wisconsin Statutes. The statute authorizes law-enforcement officers to search the person, home, or property of a criminal offender serving a term of "extended supervision"—the period of community supervision that follows a prison term—based on reasonable suspicion of criminal activity or a violation of supervision. Caya moved to suppress the evidence recovered from his home, arguing that the search was unlawful under the Fourth Amendment. The district judge denied the motion. Caya pleaded guilty, reserving his right to challenge the suppression ruling on appeal. We affirm the judgment.

USA v. Brandon Wilson No. 19-1853
Submitted April 9, 2020 — Decided April 17, 2020
Case Type: Criminal
Central District of Illinois. No. 13-cr-10025 — **Sara Darrow**, *Chief District Judge*.
Before WILLIAM J. BAUER, *Circuit Judge* JOEL M. FLAUM, *Circuit Judge* MICHAEL S. KANNE, *Circuit Judge*

ORDER
While on federal supervised release for his unlawful possession of a firearm, the State of Illinois charged Brandon Wilson with four crimes related to his possession and manufacturing of methamphetamine. Wilson subsequently pleaded guilty in state court to one count of possession of methamphetamine-making materials and the court sentenced him to four years in an Illinois prison. Concurrently, the United States petitioned a federal court to revoke Wilson's supervised release based on the same set of allegations. When Illinois paroled Wilson from its custody, the United States immediately detained him for violating the conditions of his supervised release. Wilson eventually admitted the government's allegations and a federal district court revoked his release, sentencing Wilson to two additional years in federal prison. Wilson now appeals that sentence, arguing (1) he did not knowingly and voluntarily waive his right to a revocation hearing, (2) he did not receive the effective assistance of counsel during his revocation proceedings, and (3) the district court erred in sentencing him because it did not consider the relevant statutory factors or provide sufficient reasons for its judgment. We affirm.
