

Opinions for the week of June 1 – June 5, 2020

R3 Composites Corporation v. G&S Sales Corp. No. 19-2290

Argued January 22, 2020 — Decided June 1, 2020

Case Type: Civil

Northern District of Indiana, Fort Wayne Division. No. 1:16-cv-00387-HAB-SLC — **Holly A. Brady**, *Judge*.
Before WOOD, *Chief Judge*, and SYKES and HAMILTON, *Circuit Judges*.
SYKES, *Circuit Judge*, dissenting.

HAMILTON, *Circuit Judge*. The central issue in this case is whether R3 Composites Corporation owes G&S Sales Corporation any additional sales commissions for work G&S did as a representative for R3. The parties agreed on a written contract. The critical term dealing with sales commissions did not show any agreement on commission rates. It said instead that the parties would try to agree on commission rates on a job-by-job, customer-by-customer basis. Everyone agrees that the original “agreement to agree” would not have been enforceable by itself, but the parties did in fact later agree on commission rates for each customer and went forward with their business. The district court granted summary judgment for manufacturer R3, relying primarily on the original failure to agree on commission rates. We reverse. A reasonable jury could find that the later job-by-job commission agreements were governed by the broader terms of the original written contract. The rest of the case is rife with factual disputes that cannot be resolved on summary judgment. [Full text](#)

Logan Owsley v. Mark Gorbett No. 19-1825

Argued May 19, 2020 — Decided JUNE 1, 2020

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:15-cv-00552-RLY-MJD — **Richard L. Young**, *Judge*.
Before EASTERBROOK, BRENNAN, and ST. EVE, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Public officials in Bartholomew County, Indiana, believe that Cary Owsley committed suicide. His son, Logan, believes that Cary was murdered by his wife, Lisa, and her sons DeWayne and Josh. Contending that the Sheriff and his deputies have lost or destroyed evidence that would help Cary’s estate to pursue claims against the putative murderers, Logan filed this federal civil-rights suit, invoking 42 U.S.C. §§ 1983, 1985, and 1986. Logan purported to represent his father’s estate, but except for a brief time he has not been its administrator. Lisa Owsley occupied that position, and Indiana’s judiciary denied Logan’s request to replace her. See *In re Estate of Owsley*, No. 03C01-1406-ES-002796 (Ind. Cir. Ct., Feb. 16, 2016). See also *Owsley v. Gorbett*, 87 N.E.3d 44 (Ind. App. 2017) (affirming the denial of Logan’s motion to open a separate estate). The estate decided not to pursue litigation, but it did assign to Logan “[w]hatever interest the Estate of Cary A. Owsley has in the federal lawsuit” (*id.* at ¶5). The state’s appellate court implied that “whatever interest” the estate had is worthless but left final determination to the federal court. The federal court dismissed Logan’s suit for lack of standing. Instead of deciding whether the assignment to Logan conferred a valuable interest, the judge wrote that Logan has not suffered any personal injury. And because Logan’s federal claim failed, the judge dismissed without prejudice Logan’s state-law tort claims for infliction of emotional distress. All parties are citizens of Indiana, so only the supplemental jurisdiction of 28 U.S.C. §1367 could support the tort claims, and with federal jurisdiction lacking the state-law claims also had to go... The district court did not consider this subject, and perhaps Logan has a line of argument, not articulated in his appellate briefs, that would overcome our skepticism. The first order of business on remand should be to decide whether an access-to-courts claim, the only thing covered by the assignment, can be based on an assertion that the defendants concealed or destroyed evidence that could have been relevant, had suit been filed in state court. VACATED AND REMANDED

[Full text](#)

USA v. Carlos Maez, Matthew Jones, Cameron Battiste Nos. 19-1287, 19-1768, & 19-2049

Submitted March 31, 2020 — Argued March 31, 2020 — Decided June 1, 2020

Case Type: Criminal

Northern District of Indiana, South Bend Division. No. 3:16-cr-00057-JD-MGG-1 — **Jon E. DeGuilio**, Judge.

Central District of Illinois, Urbana Division. No. 2:18-cr-20036-HAB-EIL-1 — **Harold A. Baker**, Judge.

Northern District of Illinois, Eastern Division. No. 1:17-cr-00220-2 — **Matthew F. Kennelly**, Judge.

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

HAMILTON, *Circuit Judge*. In separate cases, juries found appellants Carlos Maez, Matthew Jones, and Cameron Battiste guilty of violating 18 U.S.C. § 922(g), which prohibits convicted felons and several other classes of people from possessing firearms or ammunition. In their appeals, the three defendants raise overlapping issues relying on *Rehaif v. United States*, 139 S. Ct. 2191 (2019), to challenge their convictions in trials held before *Rehaif* was decided. Before *Rehaif*, the federal courts of appeals had all held that § 922(g) required the government to prove a defendant knowingly possessed a firearm or ammunition, but not that the defendant knew he or she belonged to one of the prohibited classes. *United States v. Williams*, 946 F.3d 968, 970 (7th Cir. 2020). In *Rehaif*, the Supreme Court reached a different conclusion, holding that the statute requires the government to “show that the defendant knew he possessed a firearm and also that he knew he had the relevant status when he possessed it.” 139 S. Ct. at 2194. Courts across the nation are grappling with how *Rehaif* affects cases pending on direct appeal when it came down. This court has already affirmed several pre-*Rehaif* convictions based on guilty pleas, but this is our first precedential decision concerning convictions upon jury verdicts. See *United States v. Ballard*, 950 F.3d 434, 436 n.1 (7th Cir. 2020); *United States v. Dowthard*, 948 F.3d 814, 818 (7th Cir. 2020); *Williams*, 946 F.3d at 975. The three appellants assert types of error that we have not yet addressed in light of *Rehaif*: a missing element in their indictments and jury instructions and—in Jones’s case—a denied motion for a judgment of acquittal. Applying plain-error review, we conclude that the asserted errors do not require reversing any of the convictions. We vacate Jones’s sentence, however. As the government acknowledges, the district court made what is known as a *Tapia* error, imposing a longer prison term for purposes of rehabilitation through prison programs.

[Full text](#)

Claudia Martin v. Cook County, Illinois No. 19-2656

Argued May 27, 2020 — Decided June 2, 2020

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:17-cv-02330 — **Gary Feinerman**, Judge.

Before FRANK H. EASTERBROOK, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; MICHAEL B. BRENNAN, *Circuit Judge*.

ORDER

The district court’s judgment dismissing the claims of plaintiff Claudia Martin is AFFIRMED for the reasons provided in the district court’s thorough order.

[Full text](#)

City of Chicago v. William Barr Nos. 18-2885 & 19-3290

Case Type: Civil

No. 18-2885 Argued April 10, 2019, No. 19-3290 Submitted February 6, 2020 — Decided April 29, 2020 — Amended June 4, 2020

Northern District of Illinois, Eastern Division. Nos. 1:17-cv-05720 & 1:18-cv-06859 — **Harry D. Leinenweber**, Judge.

Before BAUER, MANION, AND ROVNER, *Circuit Judges*.

MANION, *Circuit Judge*, concurring in the judgment.

ROVNER, *Circuit Judge*. In this appeal from two consolidated cases, we consider for a second time the legality of conditions imposed by the Attorney General on the Edward Byrne Memorial Justice Assistance Grant Program (“Byrne JAG”). See 34 U.S.C. § 10151 et seq. (formerly 42 U.S.C. § 3750). Previously, the district court granted a preliminary injunction as to two conditions—known as the notice and access

conditions—imposed by the Attorney General on the FY 2017 Byrne JAG grant applicants... Accordingly, we affirm the grants of declaratory relief as to the declarations that the Attorney General exceeded the authority delegated by Congress in the Byrne JAG statute, 34 U.S.C. § 10151 et seq., and in 34 U.S.C. § 10102(a), in attaching the challenged conditions to the FY 2017 and FY 2018 grants, and that the Attorney General's decision to attach the conditions to the FY 2017 and FY 2018 Byrne JAG grants violated the constitutional principle of separation of powers. In light of our determination as to the language in § 10153, it is unnecessary to reach the constitutionality of § 1373 under the anti-commandeering doctrine of the Tenth Amendment. We remand for the district court to modify the injunction to require the Attorney General to calculate the City of Chicago's Byrne JAG grant as if the challenged conditions were universally inapplicable to all grantees. As set forth in this opinion, as the grant is currently structured and implemented, that would require program-wide elimination of the conditions in the awarding of the grants unless the Attorney General establishes in the district court an alternative that would satisfy the injunction. Although that may have the practical impact of altering the grants of all grantees program-wide, that is an incidental effect of the injunctive relief that we uphold today, which is limited in scope to the plaintiff itself and does not grant relief directly to other grantees. We affirm the extension of injunctive relief to include the application of the challenged conditions to the Byrne JAG grant now and in the future, which included enjoining the Attorney General from denying or delaying issuance of the Byrne JAG award to grants in FY 2017, FY 2018, FY 2019 and any other future program year insofar as that denial or delay is based on the challenged conditions or materially identical conditions. We remand for the district court to determine if any other injunctive relief is appropriate in light of our determination that § 10153 cannot be used to incorporate laws unrelated to the grants or grantees. Finally, because the injunctive relief is necessary to provide complete relief to Chicago itself, the concern with improperly extending relief beyond the particular plaintiff does not apply, and therefore there is no reason to stay the application of the injunctive relief.

[Full text](#)

Adrian Rangel v. Steven Meyer No. 19-3472

Submitted May 28, 2020 — Decided June 5, 2020

Case Type: Civil

Northern District of Indiana, Hammond Division. No. 2:18 CV 413 — **James T. Moody**, *Judge*.

Before FRANK H. EASTERBROOK, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

The district court dismissed Adrian Rangel's federal suit contesting the legality of state-court orders regarding his obligation to pay child support. The *Rooker-Feldman* doctrine deprived the district court of jurisdiction to hear this suit, so we affirm.

[Full text](#)

Norman Peck v. IMC Credit Services No. 19-3187

Submitted May 28, 2020 — Decided June 5, 2020

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:18-cv-03143-SEB-TAB — **Sarah Evans Barker**, *Judge*.

Before EASTERBROOK, SYKES, and ST. EVE, *Circuit Judges*.

PER CURIAM. Norman Peck sued IMC Credit Services for mailing him a letter to collect a debt that he insists he does not owe, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692–1692p. The district court entered judgment for Peck under Federal Rule of Civil Procedure 68 in the amount of \$1,101.00, “plus costs to be determined by the Court.” Peck sought “costs” in the amount of \$25,293.65, but the district court did not award any. Because Peck requested costs not contemplated by the federal rules and the relevant statute, we affirm.

[Full text](#)

USA v. Nicholas Hand No. 19-3017

Submitted May 28, 2020 — Decided June 5, 2020

Case Type: Criminal

Central District of Illinois. No. 13-cr-10063-002 — **Sara Darrow**, *Chief Judge*.

Before FRANK H. EASTERBROOK, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Nicholas Hand pleaded guilty in 2015 to conspiring to manufacture methamphetamine, 21 U.S.C. §§ 841(a)(1), 846, and was sentenced to time served with four years of supervised release. Near the tail end of Hand's term of supervision, the probation office petitioned to revoke his release based on two alleged violations: possessing and using methamphetamine, and beating someone with a baseball bat. (The latter resulted in a two-year sentence in state prison for aggravated battery.) After Hand admitted to both violations at a hearing, the district judge revoked his supervised release and sentenced him to 18 months in prison (to be served consecutive to his state sentence) with no further supervised release. Hand filed a notice of appeal, but his lawyer asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738 (1967). A defendant who appeals a revocation order does not have an unqualified constitutional right to counsel, so the *Anders* safeguards need not govern our review. *Gagnon v. Scarpelli*, 411 U.S. 778, 789–91 (1973). Even so, our practice is to apply them. *See United States v. Brown*, 823 F.3d 392, 394 (7th Cir. 2016). Counsel's brief explains the nature of the case and addresses potential issues that this kind of appeal might involve. Because counsel's analysis appears adequate, we limit our review to the subjects he discusses and those that Hand raises in response... Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.

[Full text](#)

Roland Price v. Phillip Friedrich No. 19-2485

Submitted May 28, 2020 — Decided June 5, 2020

Case Type: Prisoner

Eastern District of Wisconsin. No. 15-cv-774-pp — **Pamela Pepper**, *Chief Judge*.

Before FRANK H. EASTERBROOK, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

Roland Price, a Wisconsin prisoner, believes that prison officials denied him access to the courts when they seized his legal materials in retaliation for grievances he filed against a correctional officer. The district court entered summary judgment against him, concluding that he did not exhaust administrative remedies regarding his retaliation claim and that he had not shown prejudice regarding his claim of denial of access to the courts. We affirm.

[Full text](#)

Arwa Chiropractic, P.C. v. Med-Care Diabetic & Medical Supplies Inc. No. 19-1916

Argued December 6, 2019 — Decided June 5, 2020

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:14-cv-05602 — **John Z. Lee**, *Judge*.

Before ROVNER, BRENNAN, and ST. EVE, *Circuit Judges*.

BRENNAN, *Circuit Judge*. A medical supply company sent faxes to thousands of medical providers to solicit prescriptions to sell medical equipment to the providers' patients. One provider received numerous faxes and filed this class action challenging the faxing practices under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.* As the case worked its way through the district court, the supply company failed to appear and had default judgment entered against it as to liability but not damages. Later the supplier's chief executive officer was granted summary judgment. Concerned with an inconsistency, the district court vacated the default judgment against the supply

company and entered judgment for both the executive and the company. The medical provider appeals that decision. We affirm the judgment for the executive. But because the good cause standard was not applied in vacating the default judgment against the company, and inconsistent judgments between the individual and corporate defendants do not present a problem, we reverse and remand for further proceedings on the claim against the company.

[Full text](#)

Quincy Bioscience, LLC v. Ellishbooks No. 19-1799

Decided June 5, 2020

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 1:17-cv-08292 — **Sharon Johnson Coleman**, *Judge*. Before WOOD, *Chief Judge*, and FLAUM and RIPPLE, *Circuit Judges*.

PER CURIAM. On April 24, 2020, we issued an opinion affirming the judgment in favor of the appellee, Quincy Bioscience, LLC (“Quincy”). See *Quincy Bioscience, LLC v. Ellishbooks*, 957 F.3d 725, 726 (7th Cir. 2020). Quincy now seeks an award of sanctions under Federal Rule of Appellate Procedure 38. For the reasons stated below, the motion is granted.

[Full text](#)

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](#).