Opinions for the week of March 16 - March 20, 2020

Preston Bennett v. Thomas Dart No. 20-8005
Submitted March 4, 2020 — Decided March 16, 2020
Case Type: Miscellaneous
Northern District of Illinois, Eastern Division. No. 18-cv-04268 — **John Robert Blakey**, *Judge*.
Before WOOD, Chief Judge, and EASTERBROOK and ROVNER, *Circuit Judges*.

PER CURIAM. When Preston Benntt was locked up in the Cook County Jail, he was assigned to Division 10, which houses detainees who need canes, crutches, or walkers. He alleges in this suit under the Americans with Disabilities Act, 42 U.S.C. §§ 12131–34, and the Rehabilitation Act, 29 U.S.C. §794, that Division 10 lacks the grab bars and other fixtures needed for such persons to use showers and bathrooms safely. Bennett adds that he fell and was injured as a result of this deficiency. Bennett wants to represent a class of detainees who need canes, crutches, or walkers. The district court denied his initial application, ruling that the appropriate accommodation of any detainee's situation depends on personal characteristics, so common questions do not predominate….The district court's class-certification decision is vacated, and the case is remanded for the certification of an appropriate class if all applicable standards of Rule 23(a) and (b) have been met.

Executive Committee of the Uni. v. Walter Brzowski No. 19-2167
Submitted March 13, 2020 — Decided March 16, 2020
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 07-0C-5613 — **Rubén Castillo**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
After Walter Brzowski repeatedly filed federal challenges to his divorce case, the Executive Committee for the United States District Court for the Northern District of Illinois restricted him in 2007 from filing new cases without its permission. Brzowski ignored the requirement, so in May 2019 the Committee renewed the restriction for another year. Brzowski contests that renewal, arguing that the Committee unlawfully imposed the restriction to retaliate against him for exercising his First Amendment right to bring federal challenges to his divorce case. But those challenges were frivolous suits, not protected speech, so we affirm the Committee's judgment.

Michael Reinaas v. Andrew M. Saul No. 19-1985
Argued March 3, 2020 — Decided March 16, 2020
Case Type: Civil
Western District of Wisconsin. No. 16-cv-814 — **William M. Conley**, *Judge*.
Before EASTERBROOK, KANNE, and ST. EVE, *Circuit Judges*.

PER CURIAM. Michael Reinaas seeks Social Security disability benefits, asserting that he became disabled from neck and shoulder pain in January 2013 after undergoing right shoulder surgery. Relying on reports by two non-examining state-retained doctors over a treating physician's opinion, the administrative law judge found that Reinaas's subjective descriptions of his pain and functional limitations were not credible and determined that he was not disabled because he could still perform light work with some restrictions. The district court upheld that determination. But substantial evidence does not support the ALJ's decision to discount the treating physician's opinion, and the ALJ did not adequately evaluate his subjective complaints. We therefore vacate the judgment and remand for further proceedings.

Yves Maboneza v. Officer Kincaid No. 19-1925
Submitted March 13, 2020 — Decided March 16, 2020
Case Type: Prisoner
Central District of Illinois. No. 2:19-cv-02044-CSB — **Colin S. Bruce**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
Yves Maboneza, an Illinois prisoner, applied to proceed in forma pauperis ("IFP") in his federal lawsuit under 42 U.S.C. § 1983 alleging that, because he is "a tutsi true man of God," several prison guards orchestrated his assault by a fellow prisoner. The district court denied his request, reasoning that he had received too much income in the preceding six months to be considered indigent. After Maboneza failed to timely pay the full filing fee, the court dismissed his case without prejudice. We conclude that the district court permissibly found that Maboneza was not indigent, so we affirm.

Richard A. Hazelton v. Board of Regents for the Unive No. 19-1405
Argued November 8, 2019 — Decided March 16, 2020
Case Type: Bankruptcy from District Court
Western District of Wisconsin. No. 18-cv-159-jdp — **James D. Peterson**, *Chief Judge*.
Before RIPPLE, ROVNER, and SYKES, *Circuit Judges*.

SYKES, *Circuit Judge*. Richard and Kelly Hazelton asked a bankruptcy court to sanction the University of Wisconsin Stout for collecting an educational debt after their debts were discharged in Chapter 7 bankruptcy. The bankruptcy judge held that the debt was a nondischargeable student loan, so UW-Stout did not violate the discharge injunction. The district court reversed, concluding that the debt was not a student loan and thus was not excluded from the bankruptcy discharge. The district judge remanded to the bankruptcy court for further proceedings on the question of sanctions. UW-Stout asks us to review the district court's order. We cannot do so. Our jurisdiction in bankruptcy cases under 28 U.S.C. § 158(d)(1) is limited to appeals from final district court orders that resolve "discrete disputes" within the bankruptcy case. Bullard v. Blue Hills Bank, 135 S. Ct. 1686, 1692 (2015). The dispute at issue here is whether UW-Stout should be sanctioned for violating the discharge injunction. The district court did not resolve that dispute. Rather, the judge decided a subsidiary legal issue and remanded to the bankruptcy court for resolution of the sanctions dispute. Accordingly, we lack jurisdiction and must dismiss the appeal.

Roger Day, Jr. v. T. J. Watson No. 19-2651
Submitted March 13, 2020 — Decided March 17, 2020
Case Type: Prisoner
Southern District of Indiana, Terre Haute Division. No. 2:19-cv-00200-JMS-DLP — **Jane Magnus-Stinson**, *Chief Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
This is the latest in a long sequence of cases filed by Roger C. Day, Jr., now a federal prisoner in Indiana, challenging the validity of his criminal convictions related to his multimillion-dollar scheme to defraud the United States Department of Defense. In this suit, Day invokes 18 U.S.C. § 3192, codifying the Rule of Specialty, a principle of treaty law providing that an extradited defendant may be prosecuted "only to the extent expressly authorized by the surrendering nation in the grant of extradition." United States v. Stokes, 726 F.3d 880, 887–89 (7th Cir. 2013); see Fiocconi v. Attorney Gen. of the U.S., 462 F.2d 475, 482 (2d Cir. 1972). Recognizing that Day was a federal prisoner challenging the fact or duration of his custody, the district court told Day he would have to proceed under 28 U.S.C. § 2241. When Day refused, the court dismissed his suit for failure to prosecute and failure to follow the court's orders. Because Day's

exclusive remedy is a collateral attack under § 2241 or 28 U.S.C. § 2255, there was no abuse of discretion in the district court's dismissal of his action, and we therefore affirm.

Gerald Jones v. Rob Jeffreys No. 19-2537
Submitted March 13, 2020 — Decided March 17, 2020
Case Type: Prisoner
Central District of Illinois. No. 19-1246-CSB — **Colin S. Bruce**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
Gerald Jones, an Illinois prisoner, wants to sue prison officials for punishing him for filing a previous lawsuit. He accuses them of lying to isolate him in segregation and threatening to kill him if he returns to general population. Jones filed his proposed complaint in district court, but because he could not afford the filing fee, he moved to proceed in forma pauperis under 28 U.S.C. § 1915. The district court denied the motion because Jones has three "strikes" under the Prison Litigation Reform Act, and because, the court ruled, he failed to satisfy the exemption for inmates who are "under imminent danger of serious physical injury." See id. § 1915(g). Because we conclude that Jones has adequately alleged such danger, we vacate the court's order denying Jones leave to proceed in forma pauperis and remand for further proceedings.

USA v. Adam Lett No. 19-2257
Submitted March 13, 2020 — Decided March 17, 2020
Case Type: Criminal
Southern District of Indiana, Indianapolis Division. No 2:10-cr-00026-010 — **Jane Magnus-Stinson**, *Chief Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
Adam Lett, a federal prisoner, appeals the denial of his second motion under 18 U.S.C. § 3582(c)(2) for a sentence reduction based on the retroactive application of Amendment 782 to the United States Sentencing Guidelines. But because Lett's sentence was not "based on" the Sentencing Guidelines, Amendment 782 does not affect his sentence. We therefore affirm.

Kurt Marquardt v. Andrew M. Saul No. 19-1725
Submitted March 13, 2020 — Decided March 17, 2020
Case Type: Civil
Eastern District of Wisconsin. No. 17-cv-1489 — **David E. Jones**, *Magistrate Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge*.

ORDER
Kurt Marquardt challenges the denial of his application for disability benefits. Marquardt contends that, in assessing his capacity for work, an administrative law judge improperly discredited medical opinions issued after he was last insured in 2013. These opinions diagnosed him with a longstanding cognitive impairment that limits him to jobs involving one task at a time, breaks, and no distractions. Because the judge did not adequately justify discounting these opinions, we vacate the judgment.

Thomas Zummo v. City of Chicago No. 18-3531
Submitted March 13, 2020 — Decided March 17, 2020
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 17-C-9006 — **Edmond E. Chang**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; AMY C. BARRETT, *Circuit Judge.*

ORDER
When Thomas Zummo last renewed his taxi medallion with the City of Chicago, he expected limited competition from other drivers seeking passengers. But in 2014, when the City enacted regulations for ride-share companies such as Uber and Lyft, it permitted many more drivers to enter the market for passengers. Zummo has now sued the City, contending that by failing to protect his investment in his taxi medallion, the City denied him due process, restrained his trade, and committed fraud. The district court correctly dismissed the complaint for failure to state a claim, so we affirm.

Depuy Synthes Sales, Inc. v. Orthola, Inc. No. 19-2765
Argued January 14, 2020 — Decided March 18, 2020
Case Type: Civil
Southern District of Indiana, Indianapolis Division. No. 1:19-cv-01072-JMS-DLP — **Jane Magnus-Stinson**, *Chief Judge*.
Before WOOD, *Chief Judge*, and ROVNER and ST. EVE, *Circuit Judges*.

WOOD, *Chief Judge*. This lawsuit was sparked by a distributorship agreement that fell apart. DePuy Synthes Sales, Inc., manufactures medical implants and instruments, including joint-reconstruction products. It uses exclusive distributors to bring those products to its customers. For a time, its distributor for the Los Angeles area was OrthoLA, Inc., a company founded and run by Bruce Cavarno. (We refer to them collectively as OrthoLA unless the context requires otherwise.) We summarize the underlying dispute in more detail below. For now, it is enough to know that when the parties' distribution arrangements came to an end, OrthoLA turned to the Los Angeles Superior Court for help. DePuy responded with a motion to refer those claims to arbitration, but the state court denied it. DePuy then took two steps: it appealed the state court order to the California Court of Appeal, and on the same day it filed a demand for arbitration with the American Arbitration Association. Three days later, it filed the present suit in the federal district court in Indianapolis, seeking an or-der compelling arbitration and an injunction against the state-court proceedings. Citing *Colorado River Conservation Dist. v. United States*, 424 U.S. 800 (1976), the district court elected to stay the case before it pending the resolution of the California action. DePuy has appealed from that stay order. We conclude, however, that the district court did not stray beyond the boundaries of its discretion, and so we affirm.

USA v. Nolan Brewer No. 19-2095
Argued March 3, 2020 — Decided March 18, 2020
Case Type: Criminal
Southern District of Indiana, Indianapolis Division. No. 1:18-cr-00286-001 — **Tanya Walton Pratt**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* MICHAEL S. KANNE, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Nolan Brewer and his then-wife spray painted swastikas and iron crosses onto a synagogue's dumpster enclosure. Next to it, he set fire to an area of grass on the property using a homemade mixture of gasoline and styrofoam. Brewer pleaded guilty to conspiring to injure, oppress, threaten, and intimidate the synagogue's congregants because they were Jewish, in violation of their right to hold property free of racial discrimination. *See* 18 U.S.C. § 241. On appeal, he challenges the district court's application of a

base offense level of 20 under the arson sentencing guideline, *see* U.S.S.G. § 2K1.4(a)(2)(C), because he "endangered … a place of public use." Because the district court did not clearly err in concluding that the record evidence supported the application of this guideline, we affirm.

Ryan Krueger v. Carrie Stage Nos. 19-3103 and 19-3379
Submitted March 19, 2020 — Decided March 19, 2020
Case Type: Civil
Eastern District of Wisconsin. No. 19-C-1470 — **William C. Griesbach**, *Judge*.
Eastern District of Wisconsin. No. 19-C-1670 — **William C. Griesbach**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
In these appeals, which we have consolidated for decision, Ryan Krueger challenges the district court's dismissals of his complaints alleging violations of his right under the Americans with Disabilities Act to have a veteran's "advocate" accompany and communicate for him in a state-court proceeding. The district court dismissed the complaints at screening, *see* 28 U.S.C. § 1915(e)(2)(B), for failing to state a claim upon which relief could be granted. We affirm the judgments.

Kiel Stone v. Jeff Roseboom No. 19-3093
Submitted March 19, 2020 — Decided March 19, 2020
Case Type: Civil
Northern District of Indiana, South Bend Division. No. 3:19-cv-781 — **Jon E. DeGuilio**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Kiel Stone, proceeding pro se, sued police officers, a city attorney, a jail warden, and others, alleging that they violated his constitutional rights after he was arrested. When he sued them, he was already restricted from filing such suits until he paid his outstanding fines from past litigation, so the district court dismissed the case without prejudice. That reasoning was correct, so we affirm.

Jeremy Lowrey v. Andrew Tilden No. 19-1365
Submitted March 19, 2020 — Decided March 19, 2020
Case Type: Prisoner
Central District of Illinois. No. 1:16-cv-1170 — **Jonathan E. Hawley**, *Magistrate Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Jeremy Lowrey, a prisoner at Pontiac Correctional Facility, says that after he suffered stomach pain (which he thought was related to a medical implant), a prison doctor treated his symptoms but refused to send him to an outside specialist. Believing that this refusal violated the Eighth Amendment, he sued the doctor, the doctor's employer (Wexford Health Sources), and others under 42 U.S.C. § 1983. The district court denied Lowrey's requests for counsel and granted the defendants' motions for summary judgment. Because the record, construed in Lowrey's favor, shows no deliberate indifference, and because the court reasonably ruled that counsel was not needed, we affirm.

USA v. Olusola Arojojoye No. 19-2889
Submitted March 19, 2020 — Decided March 20, 2020
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 09-CR-365-3 — **Ronald A. Guzmán**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge* DIANE S. SYKES, *Circuit Judge* AMY J. ST. EVE, *Circuit Judge*

ORDER
Raising an argument that this court has twice rejected, Olusola Arojojoye moved for a reduction in his sentence under the "compassionate release" provision of the First Step Act, 18 U.S.C. § 3582(c)(1)(A)(i). The district court construed Arojojoye's challenge to the length of his sentence as a successive motion under 28 U.S.C. § 2255 and dismissed for lack of jurisdiction. That was appropriate, and so we deny Arojojoye's implied request for a certificate of appealability and dismiss the appeal.

Ruben Sanchez v. U.S.A. No. 19-1836
Submitted March 19, 2020 — Decided March 20, 2020
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 18 C 06356 — **Edmond E. Chang**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Ruben Sanchez posits a nationwide conspiracy to violate his civil rights. The district court screened the complaint under 28 U.S.C. § 1915(e)(2), denied Sanchez's request for counsel, and dismissed the suit without leave to amend. Because the suit is frivolous and amending the complaint would not cure its defects, we affirm.

Daniel Troya v. Williams Wilson No. 19-1352
Submitted March 19, 2020 — Decided March 20, 2020
Case Type: Prisoner
Southern District of Indiana, Terre Haute Division. No. 2:17-cv-00162-JRS-DLP — **James R. Sweeney, II**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Daniel Troya, a federal inmate in Indiana, had surgery to remove hemorrhoids. Contending that the prison's medical staff deliberately ignored his medical needs in the wake of surgery, Troya filed this *Bivens* action. *See Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). Because no reasonable juror could find that the defendants recklessly ignored Troya's post-surgical needs, we affirm the judgment.

USA v. Monta Groce No. 19-1170
Argued January 14, 2020 — Decided March 20, 2020
Case Type: Criminal
Western District of Wisconsin. No. 15-cr-78-wmc-01 — **William M. Conley**, *Judge*.
Before WOOD, *Chief Judge*, and ROVNER and ST. EVE, *Circuit Judges*.

WOOD, *Chief Judge*. Monta Groce challenges two conditions of supervised release that were imposed as part of his sentence for various sex trafficking crimes. In the district court, Groce did not object to either of the two conditions, even though he objected to four others and waived his right to have the district court read each condition and its justification. We have faced this situation in several recent decisions and have

found that these circumstances normally amount to waiver. There is nothing unusual in Groce's case that would call for a different result. We thus hold that he waived his appellate challenges to the two conditions, and we affirm.

Molly Joll v. Valparaiso Community Schools No. 18-3630
Argued December 4, 2019 — Decided March 20, 2020
Case Type: Civil
Northern District of Indiana, Hammond Division. No. 2:16-cv-00338-JEM — **John E. Martin**, *Magistrate Judge*.
Before FLAUM, RIPPLE, and HAMILTON, *Circuit Judges*.
RIPPLE, *Circuit Judge*, dissenting.

HAMILTON, *Circuit Judge*. Plaintiff Molly Joll is an accomplished runner and an experienced running coach. She applied for a job as the assistant coach of a high school girls' cross-country team. The high school hired a younger man for the job but invited Joll to apply for the same position on the boys' team. So she did—and the high school hired a younger man again. She filed this suit for sex and age discrimination. After discovery, the district court granted summary judgment for the school district, concluding that Joll had not offered enough evidence of either form of discrimination to present to a jury. We reverse the dismissal of Joll's sex discrimination claim.

Craig Childress v. Ryan Kerr No. 18-3455
Submitted March 19, 2020 — Decided March 20, 2020
Case Type: Civil
Central District of Illinois. No. 17-4073-CSB — **Colin S. Bruce**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE S. SYKES, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Craig Childress applied for, and was granted, leave to proceed in forma pauperis (IFP) in his civil rights case. More than a year later, the district court dismissed the suit with prejudice, concluding that Childress had lied on his IFP application and failed to update the court when his financial situation improved. Because this sanction was not an abuse of discretion, we affirm the judgment.

USA v. Christopher Davis and Maurice Greer Nos. 18-2634 & 18-3129
Argued December 3, 2019 — Decided March 20, 2020
Case Type: Criminal
Southern District of Indiana, Indianapolis Division. No. 1:15-cr-00184-SEB-MJD — **Sarah Evans Barker**, *Judge*.
Before WOOD, *Chief Judge*, and HAMILTON and SCUDDER, *Circuit Judges*.

WOOD, *Chief Judge*. Christopher Davis and Maurice Greer were charged with robbing two different Walmarts in Indiana over a four-month period. A jury convicted both of them, and they now challenge the sufficiency of the evidence underlying their convictions. Because a rational jury could have found each one guilty beyond a reasonable doubt, we affirm.