

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Shaun P. Duerr, individually and as next friend of N.D., a minor v.
Wisconsin Office of Lawyer Regulation, Deputy Director Francis
Sullivan and Intake Coordinator Emma Babler

No. 25-cv-1071-WMC · No. 25-cv-1071-WMC · Decided January 28, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin dismissed Shaun Duerr’s claims against the Wisconsin Office of Lawyer Regulation and two officials arising from the dismissal of his complaints against a guardian ad litem. The court held that the allegations failed to state claims under 42 U.S.C. § 1983, the ADA, or the Rehabilitation Act, and that the requested relief raised federalism and comity concerns warranting abstention. The court dismissed the complaint without leave to amend and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	January 28, 2026
DOCKET	25-cv-1071-WMC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court sua sponte screened a fee-paid complaint before service and dismissed it for failure to state a federal claim and on abstention grounds.
STANDARD OF REVIEW	On sua sponte review, the court accepted the allegations as true and construed them generously under a less stringent standard than that applicable to a lawyer-drafted complaint, while determining whether the complaint stated a federal claim upon which relief could be granted.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court opinion
PARTIES	Shaun P. Duerr, individually and as next friend of N.D., a minor v. Wisconsin Office of Lawyer Regulation, Deputy Director Francis

TOPICS

civil procedure section 1983 due process comity ada / disability

PRACTICE AREAS

civil rights constitutional law civil procedure administrative law disability discrimination

QUESTIONS PRESENTED

1. Whether the complaint stated a procedural due process claim based on OLR's handling and dismissal of Duerr's administrative complaints.
2. Whether OLR's handling of the complaints violated Duerr's First Amendment right to petition or his alleged right of access to a functioning state forum.
3. Whether the complaint stated claims under Title II of the Americans with Disabilities Act or the Rehabilitation Act.
4. Whether abstention was required because the requested federal relief would undermine or interfere with ongoing state divorce and custody proceedings.
5. Whether Duerr should be granted leave to amend.

HOLDINGS

1. The complaint did not state a procedural due process claim because Duerr had no federally protected liberty or property interest in OLR's discretionary handling or review of his administrative complaints.
2. The complaint did not state a First Amendment or related access-to-forum claim because Duerr was able to submit a grievance to OLR and received instructions for seeking review; the government was not required to grant or adopt his petition.
3. The complaint did not state a claim under Title II of the ADA or the Rehabilitation Act because it did not allege that OLR or the individual defendants excluded Duerr from, or denied him benefits of, a public service, program, or activity because of a disability.
4. Abstention was warranted because Duerr sought federal relief that could be used affirmatively or offensively to shape or change the direction of the related state divorce and custody proceedings.
5. Leave to amend was properly denied because the court had no basis to infer that amendment could save the complaint from dismissal.

KEY QUOTATIONS

“The rights to speak, associate, and petition do not require government policymakers to listen or respond to individuals’ communications on public issues. So, while the government may not interfere with the right to petition, it need not grant the petition, no matter how meritorious it is.” (947 F.3d at 1063)

FACTUAL BACKGROUND

Duerr filed complaints with the Wisconsin Office of Lawyer Regulation concerning Bryce Schoenborn, a guardian ad litem involved in Duerr's state divorce and child-custody case. OLR dismissed the complaints and provided instructions for appealing to its director. Duerr then sued OLR, its deputy director, and its intake coordinator, alleging violations of the Constitution, the Americans with Disabilities Act, and the Rehabilitation Act and seeking monetary, injunctive, and declaratory relief.

PROCEDURAL HISTORY

Duerr filed this action arising from a state-court divorce and child-custody dispute, challenging the Wisconsin Office of Lawyer Regulation's dismissal of his complaints against a guardian ad litem. The court withheld service while reviewing the complaint, accepted the allegations as true, and construed them liberally. It dismissed the complaint without leave to amend and directed entry of judgment and closure of the case.

DISPOSITION

dismissed

CASES CITED

- Duerr v. Barna, 25-cv-957-WMC (W.D. Wis. Jan. 27, 2026)
- Mallard v. U.S. Dist. Ct., 490 U.S. 296, 307–08 (1989)
- Rowe v. Shake, 196 F.3d 778, 783 (7th Cir. 1999)
- Arnett v. Webster, 658 F.3d 742, 751 (7th Cir. 2011)
- Cruz v. Safford, 579 F.3d 840, 843 (7th Cir. 2009)
- Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 542 (1985)
- Beckman v. Samuelson, No. 24-CV-307-WMC, 2025 WL 977602, at *2 (W.D. Wis. Mar. 21, 2025)
- Chapman v. Sellen, No. 05C0015, 2005 WL 1629897 (E.D. Wis. July 5, 2005)
- Fochtman v. Van Hollen, 2021 WL 5881973, at *3 (W.D. Wis. Dec. 13, 2021)
- Shipley v. Chicago Bd. of Election Commissioners, 947 F.3d 1056, 1063 (7th Cir. 2020)
- J.B. v. Woodard, 997 F.3d 714, 721–23 (7th Cir. 2021)
- Tate v. SCR Med. Transp., 809 F.3d 343, 346 (7th Cir. 2015)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN
SHAUN P. DUERR, individually and as next friend of N.D., a minor, Plaintiffs,
OPINION AND ORDER v. 25-cv-1071-wmc WISCONSIN OFFICE OF LAWYER REGULATION, DEPUTY DIRECTOR FRANCIS SULLIVAN and INTAKE COORDINATOR EMMA BABLER, Defendants. This is the second case, out of three, that plaintiff Shaun Duerr filed arising out of a divorce and child custody dispute pending in state court.

In re the marriage of Elizabeth Duerr and Shaun Duerr, 2020FA71 (Rusk Cty. Cir. Ct.). The court dismissed plaintiff's first case, which he had filed against a Wisconsin judge, a guardian ad litem

and his ex-wife, based on abstention principles. *Duerr v. Barna*, 25-cv-957-wmc (W.D. Wis. Jan. 27, 2026) (dkt. #16).

In this case, plaintiff is suing the Wisconsin Office of Lawyer Regulation (“OLR”), OLR’s Deputy Director, Francis Sullivan, and OLR’s intake coordinator, Emma Babler, based on their dismissal of the complaints he filed about the guardian ad litem involved in the state divorce and custody case, Bryce Schoenborn. Plaintiff claims that OLR’s dismissal of his complaints violated his and his child’s rights under the U.S. Constitution, Americans with Disabilities Act (“ADA”), and Rehabilitation Act.

He seeks monetary, injunctive and declaratory relief. Plaintiff has paid the full filing fee for this action, so the complaint does not have to be screened under the in forma pauperis statute, 28 U.S.C. § 1915. However, the court has the inherent authority to screen the case on its own. See *Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 307–08 (1989) (in forma pauperis statute “authorizes courts to dismiss a ‘frivolous or malicious’ action, but there is little doubt they would have power to do so even in the absence of this statutory provision”); *Rowe v. Shake*, 196 F.3d 778, 783 (7th Cir.

1999) (“district courts have the power to screen complaints filed by all litigants, prisoners and non prisoners alike, regardless of fee status.”). Here, the court directed the clerk of court to withhold service until the court has completed review of the complaint.

On review, the court accepts plaintiff’s allegations as true and construes them generously, holding the complaint to a less stringent standard than one a lawyer drafts. *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011). Even under this lenient standard, however, this case too, must be dismissed, because plaintiff’s allegations fail to state a federal claim upon which relief may be granted.

Plaintiff’s allegations do not state a claim under 42 U.S.C. § 1983 because his allegations do not support any claim for violation of a right protected by the U.S. Constitution or federal laws. See *Cruz v. Safford*, 579 F.3d 840, 843 (7th Cir. 2009) (setting forth elements of a § 1983 claim). Plaintiff contends that OLR’s handling of his complaints about guardian ad litem Schoenborn violated his constitutional rights to due process and access to a “functioning state forum,” but his allegations support neither claim.

To establish a procedural due process violation, a plaintiff must show, at minimum, that he was deprived of liberty or property without receiving notice and an opportunity to be heard prior to the deprivation. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985). But given the level of discretion afforded to OLR under Wisconsin law, see Wis. SCR 22.02, plaintiff has no federally protected liberty or property interest in OLR’s handling of his administrative complaints.

See *Beckman v. Samuelson*, No. 24-CV-307-WMC, 2025 WL 977602, at *2 (W.D. Wis. Mar. 21, 2025) (no constitutional entitlement to judicial review following OLR complaint process);

Chapman v. Sellen, No. 05C0015, 2005 WL 1629897 (E.D. Wis. July 5, 2005) (holding that plaintiff did not have a property interest in OLR review following closure of a grievance); Fochtman v. Van Hollen, 2021 WL 5881973, *3 (W.D.

Wis. Dec. 13, 2021) (holding that discretion in the review process set out by SCR 22.02 did “not support a conclusion that plaintiff had a federal protected interest in” the handling or review of his OLR complaint).

As for his access to a “functioning state forum,” “[t]he rights to speak, associate, and petition do not require government policymakers to listen or respond to individuals’ communications on public issues. So, while the government may not interfere with the right to petition, it need not grant the petition, no matter how meritorious it is.” Shipley v. Chicago Bd. of Election Commissioners, 947 F.3d 1056, 1063 (7th Cir.

2020) (internal citations and quotations omitted). Here, plaintiff’s allegations show that he was able to petition the government -- specifically, he filed a grievance with OLR and, when that was dismissed, he was given instructions on how to appeal to OLR’s director. These allegations do not show that he was prohibited from petitioning the government. See Beckman, No. 24-CV-307-WMC, 2025 WL 977602, at *2 (OLR review process did not violate First Amendment right to petition government).

Plaintiff’s allegations also do not state any claim under the ADA or Rehabilitation Act. He says that he is bringing claims under Title II of the ADA, under which qualified individuals with disabilities may not, “by reason of... disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity.” 42 U.S.C. § 12132.

The Rehabilitation Act provides similar protections and scope. But plaintiff’s allegations do not suggest that OLR or the individual defendants excluded plaintiff or denied him any benefits because of a disability. Finally, the court notes that, as with plaintiff’s previous case arising out of the state court divorce and custody dispute, Duerr v. Barna, 25-cv-957-wmc, this case raises federalism and comity concerns because plaintiff is seeking a federal court ruling that would undermine rulings made in state court already.

As explained to plaintiff, when a plaintiff seeks to “to receive a favorable federal constitutional ruling that can be used affirmatively or offensively to shape—or perhaps change—the direction and course of the state court proceedings,” the federal court must abstain from exercising jurisdiction over the case. See J.B. v. Woodard, 997 F.3d 714, 721–23 (7th Cir.

2021). For all of these reasons, the court will dismiss plaintiff’s complaint. Because the court has no basis to infer that plaintiff could amend his complaint to save it from dismissal, the court will not offer him the opportunity to amend. See Tate v. SCR Med. Transp., 809 F.3d 343, 346 (7th Cir. 2015) (“[T]he court should grant leave to amend after dismissal of the first complaint unless it is

certain from the face of the complaint that any amendment would be futile or otherwise unwarranted.”) (emphasis original and citation and quotation marks omitted).

ORDER IT IS ORDERED that plaintiff Shaun Duerr’s complaint is DISMISSED on abstention grounds and for failure to state a claim upon which relief may be granted. The clerk of court is directed to enter judgment and close this case. Entered this 28th day of January, 2026. BY THE COURT: /s/ _____ WILLIAM M. CONLEY District Judge