

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

Andrew Leise v. Vermont Human Rights Commission, Kevin  
Christie, Bor Yang, Da Capo Publishing, Inc., and John and Jane Doe

I-X

Leise · No. 2:22-cv-00009 · Decided April 24, 2026

SUMMARY

The United States District Court for the District of Vermont denied Andrew Leise’s motion for leave to file a third amended complaint. The court granted the defendants’ motion for judgment on the federal due process claims and declined to exercise supplemental jurisdiction over the remaining Vermont tort claims, dismissing those claims for lack of jurisdiction.

CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the District of Vermont                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION       | United States District Court for the District of Vermont                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED            | April 24, 2026                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET             | 2:22-cv-00009                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DISPOSITION        | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE | Plaintiff moved for leave to file a third amended complaint. Defendants moved for judgment in their favor on the federal claims and moved to dismiss the remaining state-law tort claims for lack of supplemental jurisdiction. The district court denied leave to amend, entered judgment for defendants on Counts I through III, and dismissed the remaining state-law claims without exercising supplemental jurisdiction. |
| STANDARD OF REVIEW | Leave to amend under Federal Rule of Civil Procedure 15(a)(2) may be denied for futility, bad faith, undue delay, or undue prejudice. Supplemental jurisdiction under 28 U.S.C. § 1367(c)(3) is discretionary after dismissal of all claims within the court's original jurisdiction and is evaluated using judicial economy, convenience, fairness, and comity.                                                              |
| PRECEDENTIAL VALUE | Unknown; district-court entry order with no reporter citation or stated precedential designation.                                                                                                                                                                                                                                                                                                                             |

## TOPICS

motion to amend

motions to dismiss

subject matter jurisdiction

section 1983

due process

## PRACTICE AREAS

Civil procedure

Civil rights

Constitutional law

Federal jurisdiction

## QUESTIONS PRESENTED

1. Whether plaintiff should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a third amended complaint.
2. Whether defendants were entitled to judgment on plaintiff's federal claims in Counts I through III after dismissal of the procedural due process claims and the Second Circuit's qualified-immunity ruling on the substantive due process claim.
3. Whether the district court should exercise supplemental jurisdiction over the remaining Vermont state-law tort claims after dismissal of all claims within its original federal-question jurisdiction.

## HOLDINGS

1. Leave to amend was denied because the proposed amendment merely reasserted claims previously dismissed, failed to present a new viable ground for liability, and, even assuming a new substantive due process theory, would cause undue and prejudicial delay.
2. Defendants were entitled to judgment on Counts I through III because the procedural due process claims had already been dismissed and the Second Circuit had held that defendants were entitled to qualified immunity on the substantive due process claim.
3. The court declined to exercise supplemental jurisdiction over the remaining Vermont state-law tort claims and dismissed them for lack of jurisdiction.

## KEY QUOTATIONS

*“Of particular relevance here, a district court ‘may decline to exercise supplemental jurisdiction’ if it ‘has dismissed all claims over which it has original jurisdiction.’”*

*“In weighing these factors, the district court is aided by the Supreme Court’s additional guidance in Cohill that ‘in the usual case in which all federal-law claims are eliminated before trial, the balance of factors will point toward declining to exercise jurisdiction over the remaining state-law claims.’”*

## FACTUAL BACKGROUND

Andrew Leise alleged that Vermont Human Rights Commission officials Kevin Christie and Bor Yang wrongfully released a confidential investigative report to Seven Days, a newspaper published by Da Capo Publishing, Inc. He asserted procedural and substantive due process claims under § 1983 and Vermont claims for invasion of privacy, defamation, and tortious interference with contract. The Second Circuit held that the officials were entitled to qualified immunity on the substantive due process claim because it was reasonable for them to believe the report's release was permissible under state law.

## PROCEDURAL HISTORY

Plaintiff filed the action in January 2022 asserting federal due process claims under 42 U.S.C. § 1983 and Vermont tort claims. The district court dismissed or narrowed several claims during the litigation, and the Second Circuit later held that the VHRC defendants were entitled to qualified immunity on the substantive due process claim, affirmed dismissal of official-capacity claims, and remanded for consideration of supplemental jurisdiction over the remaining state claims. On remand, the district court denied plaintiff's proposed third amended complaint as futile and untimely, entered judgment on the federal claims, and dismissed the state-law claims for lack of jurisdiction.

## DISPOSITION

dismissed

## CASES CITED

- *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007)
- *Velez v. Levy*, 401 F.3d 75 (2d Cir. 2005)
- *Perkins v. Perez*, 2020 WL 248686, at \*4 (S.D.N.Y. Jan. 16, 2020)
- *Weslowski v. Zugibe*, 96 F. Supp. 3d 308, 315-16 (S.D.N.Y. 2015), *aff'd*, 626 F. App'x 20 (2d Cir. 2015)
- *Barkai v. Neuendorf*, 2024 WL 710315, at \*6 (S.D.N.Y. Feb. 21, 2024)
- *Block v. First Blood Assocs.*, 988 F.2d 344, 350 (2d Cir. 1993)
- *Pasternack v. Shrader*, 863 F.3d 162, 174 (2d Cir. 2017)
- *Chenensky v. N.Y. Life Ins. Co.*, 942 F. Supp. 2d 388, 391 (S.D.N.Y. 2013)
- *Itar-Tass Russian News Agency v. Russian Kurier, Inc.*, 140 F.3d 442, 445 (2d Cir. 1998)
- *Kolari v. N.Y.-Presbyterian Hosp.*, 455 F.3d 118, 122 (2d Cir. 2006)
- *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988)

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