

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Hoskins v. Dart

633 F.3d 541 (7th Cir. 2011) · No. Nos. 10-1619, 10-1627, 10-1629, 10-1640, 10-1643 · Decided January 20, 2011

SUMMARY

The Seventh Circuit affirmed the dismissal with prejudice of five prisoner civil-rights suits after finding that Joshua Hoskins intentionally and materially misrepresented his litigation history on court-issued complaint forms. The court held that dismissal was a permissible sanction for fraudulent omissions and that the district court did not abuse its discretion by imposing that sanction. The dismissals did not count as strikes under 28 U.S.C. § 1915(g), although Hoskins remained liable for applicable filing fees.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Bauer, Circuit Judge; Tinder, Circuit Judge; Hamilton, Circuit Judge
JURISDICTION	Federal
DECIDED	January 20, 2011
DOCKET	Nos. 10-1619, 10-1627, 10-1629, 10-1640, 10-1643
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal with prejudice of five prisoner civil-rights suits as a sanction for intentionally omitting prior litigation from the complaints.
STANDARD OF REVIEW	The finding of fraud was reviewed for clear error; dismissal with prejudice as a sanction was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Joshua Hoskins v. Thomas Dart, Various prison officers

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights
- appellate procedure

PRACTICE AREAS

- Civil rights
- Prisoner litigation
- Federal civil procedure
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that Hoskins fraudulently and intentionally omitted his prior pending lawsuits.
2. Whether the district court abused its discretion by dismissing the five complaints with prejudice as a sanction for the fraudulent omissions.
3. Whether the dismissals constituted strikes under 28 U.S.C. § 1915(g).

HOLDINGS

1. The district court did not clearly err in finding that Hoskins's omissions were material, intentional, and fraudulent.
2. A district court may impose sanctions, including dismissal with prejudice, against a litigant who intentionally misrepresents or fraudulently omits litigation history, and the district court did not abuse its discretion by doing so here.
3. The dismissals did not count as strikes under § 1915(g) because they were sanctions for disobeying a court rule rather than dismissals for failure to state a claim or for frivolousness or maliciousness.

KEY QUOTATIONS

“The district court did not clearly err in finding that Hoskins' omissions were both material and intentional, and thus fraudulent.” (633 F.3d at 543)

“Although the district court would have been well within its discretion in choosing a less severe sanction, dismissal was permissible without further warning or opportunity to cure in light of the warning on the complaint form and the district court's finding of fraud.” (633 F.3d at 544)

“The five dismissals were sanctions for disobeying a court rule, not rulings that the suits failed to state a claim or were frivolous or malicious” (633 F.3d at 544)

FACTUAL BACKGROUND

Hoskins, an Illinois prisoner, filed five § 1983 complaints using court-issued forms that required him to list all lawsuits and warned that failure to do so could result in dismissal. Although he had filed three similar federal civil-rights cases approximately a year earlier and was still litigating them, he crossed out the litigation-history sections of each new complaint and signed certifications of accuracy. The district court found the omissions material and intentional and dismissed the five suits with prejudice.

PROCEDURAL HISTORY

Hoskins filed five actions under 42 U.S.C. § 1983 alleging excessive force, unconstitutional conditions of confinement, denial of psychiatric medication, and inadequate grievance processing. The district court screened the complaints, found that Hoskins had fraudulently omitted three then-pending federal civil-rights cases from the required litigation-history disclosures, and dismissed all five cases with prejudice. Hoskins appealed; the appellees were never served and did not participate.

DISPOSITION

affirmed

CASES CITED

- Thomas v. General Motors Acceptance Corp., 288 F.3d 305, 307-08 (7th Cir. 2002)
- Dugan v. R.J. Corman R.R. Co., 344 F.3d 662, 667 (7th Cir. 2003)
- Wickens v. Shell Oil Co., 620 F.3d 747, 759 (7th Cir. 2010)
- In re Thomas Consolidated Industries, Inc., 456 F.3d 719, 724-25 (7th Cir. 2006)
- Newman v. Metropolitan Pier & Exposition Auth., 962 F.2d 589, 591 (7th Cir. 1992)
- Hindmon v. National-Ben Franklin Life Ins. Corp., 677 F.2d 617, 618 (7th Cir. 1982)
- Sloan v. Lesza, 181 F.3d 857, 858-59 (7th Cir. 1999)
- Ammons v. Gerlinger, 547 F.3d 724, 725 (7th Cir. 2008)
- Taylor v. Chicago Police Dept., 2008 WL 2477694, at *4 (N.D. Ill. June 18, 2008)
- Taylor v. City of Chicago, 334 Fed. Appx. 760, 761 (7th Cir. 2009)
- Heard v. Blagojevich, 216 Fed. Appx. 568, 571 (7th Cir. 2007)
- Greer v. Schriro, 255 Fed. Appx. 285 (9th Cir. 2007)
- Hood v. Tompkins, 197 Fed. Appx. 818, 819 (11th Cir. 2006)
- Byrd v. Romley, 131 Fed. Appx. 548, 549 (9th Cir. 2005)
- Albright v. Holden, 99 F.3d 1145 (9th Cir. Oct. 15, 1996)
- Oliver v. Gramley, 200 F.3d 465, 466 (7th Cir. 1999)
- Fischer v. Cingular Wireless, LLC, 446 F.3d 663, 665-66 (7th Cir. 2006)
- Ball v. City of Chicago, 2 F.3d 752, 755-56 (7th Cir. 1993)
- Lindell v. McCallum, 352 F.3d 1107, 1109-10 (7th Cir. 2003)
- Turley v. Gaetz, 625 F.3d 1005, 1008-09 (7th Cir. 2010)