

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 19-1817

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Nov 15, 2019

DEBORAH S. HUNT, Clerk

DENVER MAXWELL GOREE, JR.,

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Plaintiff-Appellant,

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V.

MICHIGAN PAROLE BOARD,

) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE WESTERN DISTRICT OF
) MICHIGAN

Defendant-Appellee.

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ORDER

Before: GILMAN, GIBBONS, and THAPAR, Circuit Judges.

Denver Maxwell Goree, Jr., a pro se Michigan prisoner, appeals the district court's judgment dismissing his federal civil-rights complaint for failure to state a claim for relief. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In 1969, a jury convicted Goree of first-degree murder for shooting and killing a police officer. The trial court sentenced Goree to life imprisonment without the possibility of parole. *See People v. Goree*, 186 N.W.2d 872 (Mich. Ct. App. 1971). In 1981, the Michigan Parole Board reviewed Goree's case and (according to Goree) concluded that it would recommend that the governor commute Goree's sentence after he served twenty-two years of imprisonment. According to Goree, however, the Board changed its rules concerning commutation recommendations in 1992 and reneged on its alleged prior commitment to recommend clemency after he completed twenty-two years of his sentence.

In March 2019, Goree filed a complaint under 42 U.S.C. § 1983 against the Board, claiming that the rules change deprived him of a protected liberty interest in the Board's original clemency recommendation without due process of law and violated the Ex Post Facto Clause. Goree sought \$1.5 million in damages and an injunction compelling the Board to follow through on its alleged original recommendation for clemency or, alternatively, to discharge him from custody.

The district court screened Goree's complaint pursuant to 28 U.S.C. § 1915A and concluded that he failed to state a claim for relief. The district court found that the Board was entitled to sovereign immunity from suit under the Eleventh Amendment; Goree did not have a liberty interest in the commutation of his sentence, the rules change did not violate the Ex Post Facto Clause; and Goree's complaint was barred by the statute of limitations for § 1983 claims in Michigan. The district court therefore dismissed Goree's complaint.

We review de novo a district court's judgment dismissing a complaint under 28 U.S.C. § 1915A. *See Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010). Section 1915A(b) requires a district court to dismiss any part of a prisoner's complaint that "fails to state a claim upon which relief may be granted" or "seeks monetary relief from a defendant who is immune from such relief." To survive dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Hill*, 630 F.3d at 471 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

The district court correctly concluded that, as an agency of the State of Michigan, the Board was entitled to Eleventh Amendment sovereign immunity from suit under § 1983. *See Lee v. Mich. Parole Bd.*, 104 F. App'x 490, 492 (6th Cir. 2004); *Fleming v. Martin*, 24 F. App'x 258, 259 (6th Cir. 2001). Moreover, Goree did not have a protected liberty interest in the commutation of his sentence, *see Manning v. Unknown Parties*, 56 F. App'x 710, 711 (6th Cir. 2003), nor did the change in commutation rules violate the Ex Post Facto Clause, *see Lewis-El v. Sampson*, 649 F.3d 423, 425-28 (6th Cir. 2011).

Accordingly, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk