

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted March 28, 2024*

Decided April 2, 2024

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-2344

JASPER FRAZIER,
Plaintiff-Appellant,

Appeal from the United States District
Court for the Southern District of
Indiana, Indianapolis Division.

v.

No. 1:22-cv-02466-JRS-MJD

ROBERT E. CARTER, et al.,
Defendants-Appellees.

James R. Sweeney II,
Judge.

ORDER

Jasper Frazier, an Indiana prisoner who has been transferred to New Jersey under an interstate corrections compact, appeals the dismissal of his complaint alleging constitutional violations at his New Jersey prison. The district judge dismissed Frazier's complaint for failure to state a claim. We affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Appendix A

In 2021, Frazier was transferred from the Indiana Department of Corrections to the New Jersey Department of Corrections under an interstate corrections compact between Indiana and New Jersey. The transfer was one of the terms of a settlement arising from Frazier's previous lawsuits against Indiana prison officials.

The following year, Frazier sued Indiana prison and state officials, along with two former lawyers from his Indiana litigation, for constitutional violations while he was at the New Jersey prison. *See* 42 U.S.C. § 1983. He asserted that prison officials in New Jersey denied him access to a religious advisor and religious materials and limited his access to courts by confiscating his legal books. He imputed liability to the Indiana defendants based on a provision in the Indiana Code specifying that inmates confined in an institution under the interstate compact are "subject to the jurisdiction of the sending state." IND. CODE § 11-8-4-6 (2015).

The district judge screened the complaint, *see* 28 U.S.C. § 1915A, and dismissed it for failure to state a claim. The judge explained that Frazier had not alleged that (1) the past and present Commissioners of the Indiana Department of Corrections were personally involved, or aware of, the acts at issue; or (2) that any of the defendants were responsible for, or aware of, the conditions of confinement or his religious practice in New Jersey. To the extent Frazier believed that the interstate compact subjected him to Indiana's jurisdiction, the judge pointed out that Indiana—as the "sending state"—has control over his placement, but not the conditions of his confinement in New Jersey.

Frazier moved for leave to amend his complaint. He attached an amended complaint that restated his essential allegations, as well as a copy of the interstate compact.

The judge denied the motion and issued a final judgment. The judge explained that Frazier's proposed amended complaint did not substantially differ from his original complaint, nor did it show why the original complaint should not be dismissed. As for the compact, the judge noted that many of its provisions establish that the conditions of a prisoner's confinement are the responsibility of the receiving state—in this case, New Jersey.

On appeal, Frazier challenges the district judge's interpretation that the interstate compact relieves Indiana officials of responsibility for the conditions he experienced in New Jersey. He argues that the compact requires the defendants to enforce his constitutional rights while he is imprisoned out of state—an obligation that extends to

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his right to access the courts through posted letters, as well as his right to practice his religion.

Frazier misconstrues the language of the compact. One provision of the compact explicitly states that "responsibility for offenders custody" rests with the receiving state. Contract for Services Between Indiana and New Jersey, § 12.¹ That provision states that the receiving state bears responsibility for providing subsistence, all necessary medical services and supplies, training and treatment programs, and safe custody. And even if the compact could be read to confer responsibility on Indiana authorities for the actions of New Jersey prison officials, government officials are held accountable in § 1983 suits only for their own misconduct. *Hess v. Garcia*, 72 F.4th 753, 767–68 (7th Cir. 2023).

We have considered Frazier's remaining arguments, and none has merit.

AFFIRMED

APPENDIX A

¹ Frazier appears to have realized as much. He has initiated a suit against New Jersey officials for the same alleged violations. *Frazier v. Kuhn et al.*, 21-16842 (BRM) (CLW) (D. N.J.).

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

April 2, 2024

Before

DIANE S. SYKES, *Chief Judge*
DAVID F. HAMILTON, *Circuit Judge*
MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-2344	JASPER FRAZIER, 'Plaintiff - Appellant v. ROBERT E. CARTER, et al., Defendants - Appellees
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Originating Case Information:

District Court No: 1:22-cv-02466-JRS-MJD
Southern District of Indiana, Indianapolis Division
District Judge James R. Sweeney II

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

Clerk of Court

form name: c7_FinalJudgment (form ID: 132)

APPENDIX A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASPER FRAZIER,)
)
 Plaintiff,)) No. 1:22-cv-02466-JRS-MJD
)
 v.)
)
 ROBERT E. CARTER, et al.,)
)
 Defendants.)

Order Dismissing Complaint and Opportunity to Show Cause

Plaintiff Jasper Frazier is a prisoner currently incarcerated at the East Jersey State Prison in Rahway, New Jersey. He filed this civil action alleging that, in the course of his transfer from Indiana to New Jersey, Indiana prison officials and others have violated his constitutional rights. Because the plaintiff is a "prisoner," this Court has an obligation to screen the complaint before service on the defendants. 28 U.S.C. § 1915A(a), (c).

I. Screening Standard

When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). To determine whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Schillinger v. Kiley*, 954 F.3d 990, 993 (7th Cir. 2020). Under that standard, a complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662,

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678 (2009). The Court construes *pro se* complaints liberally and holds them to a "less stringent standard than formal pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

II. The Complaint

Mr. Frazier sues: (1) Robert Carter; (2) Christina Reagle; (3) Bob Bugher; (4) Margo Tucker; (5) Joel Gruber; (6) Jessica Wegg; (7) Charles Little; (8) Shane Nelson; (9) Jama Jones; and (10) Glen Cecil.

Mr. Frazier is currently incarcerated by the New Jersey Department of Correction. He was transferred there pursuant to an interstate compact between Indiana and New Jersey as the result of a settlement of four lawsuits Mr. Frazier had filed against Indiana prison officials in this Court. Defendants Jessica Wegg and Charles Little represented Mr. Frazier in those lawsuits as pro bono recruited counsel, and defendants Bob Bugher and Margo Tucker represented the prison officials. Mr. Frazier contends in his complaint that as part of his settlement of the previous lawsuits, he requested that, upon his transfer to New Jersey, he be placed in a one-man cell and allowed to practice his Moorish Science Temple of America religion. Mr. Frazier contends that defendants Nelson, Jones, Cecil, Gruber, and Tucker were responsible for notifying New Jersey officials of these requests and did not do so. Because New Jersey officials have not acceded to either of these requests, Mr. Frazier alleges that each of the defendants have violated his First and Fourteenth Amendment rights.

III. Dismissal of Complaint

Applying the screening standard to the facts alleged in the complaint, the complaint must be dismissed for failure to state a claim upon which relief may be granted.

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The claims in this action are necessarily brought pursuant to 42 U.S.C. § 1983. "To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law." *L.P. v. Marian Catholic High Sch.*, 852 F.3d 690, 696 (7th Cir. 2017) (internal quotation omitted).

First, Mr. Frazier has failed to state a claim against Robert Carter or Christina Reagle, the former and current Commissioners of the Indiana Department of Correction, because the complaint does not allege that these defendants were personally involved, or even aware of, the acts at issue. *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal quotation omitted) ("Individual liability under § 1983... requires personal involvement in the alleged constitutional deprivation."). Similarly, while Mr. Frazier alleges that his property was confiscated upon his arrival in New Jersey, that he has not been permitted to practice his religion, and that he has been housed under worse conditions than the conditions he experienced in Indiana, he does not sufficiently allege that any of the defendants are responsible for the conditions of his confinement or his religious practice in New Jersey, or that they were aware that Mr. Frazier would be subject to conditions that he contends are worse than he experienced in Indiana. Mr. Frazier points to Indiana Code § 11-8-4-6 for the proposition that, as a prisoner of the State of Indiana, he remains under the jurisdiction of Indiana even when he is housed in New Jersey. That statue provides:

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided, that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of section 3 of this chapter.

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In other words, this statute provides that that Indiana, as the "sending state" has control over Mr. Frazier's placement. Mr. Frazier does not identify any authority for the proposition that Indiana officials have control over the *conditions* he experiences while he is placed in New Jersey.¹ Without personal responsibility for the conditions Mr. Frazier complains of, these defendants cannot be responsible under § 1983 for violating his rights.

To the extent that Mr. Frazier contends that the correctional official defendants retaliated against him by failing to include his religious and placement preferences on the transfer form, he has failed to state a claim for the same reasons. Mr. Frazier has stated no facts that would allow an inference that any of the defendants in this case have any say over Mr. Frazier's conditions of confinement in New Jersey, whether or not they properly filled out the transfer forms.

Finally, any claim against Jessica Wegg or Charles Little must be dismissed. Mr. Frazier alleges that these defendants acted as his counsel during previous litigation in this Court. There is no allegation that would allow an inference that either Ms. Wegg or Mr. Little acted under color of state law as required to state a § 1983 claim.²

Because the Court has been unable to identify a viable claim for relief against any particular defendant, the complaint is subject to dismissal.

¹ Indeed, Mr. Frazier has filed a lawsuit in New Jersey against New Jersey prison officials about the very conditions he complains of in this case. *See Frazier v. Kuhn, et al.*, 2:21-cv-16842 BRM CLW (D.N.J.).

² The Court further notes that Mr. Frazier has previously been warned to cease harassing his recruited counsel. In *Frazier v. Carter, et al.*, 2:17-cv-519-JMS-MG, one of the cases whose settlement is the subject of this lawsuit, Mr. Frazier filed post-judgment motions accusing recruited counsel of misconduct, among other things. In denying those motions, the Court stated:

Finally, the Court notes that recruited counsel volunteered to represent Mr. Frazier in this case and did so diligently and ably. The Court does not find the allegations made against her to be well-founded or appropriate. "The valuable help of volunteer lawyers is a limited resource. It need not and should not be squandered on parties who are unwilling to uphold their obligations as litigants." *Cartwright v. Silver Cross Hosp.*, 962 F.3d 933, 937 (7th Cir. 2020) (quoting *Dupree v. Hardy*, 859 F.3d 458, 462–63 (7th Cir. 2017)). Abuse of the recruited counsel program will not be tolerated.... Mr. Frazier is reminded of this warning.

IV. Opportunity to Show Cause

Mr. Frazier's motion to screen, dkt. [15], is **GRANTED** consistent with this Order. The plaintiff's complaint must be dismissed for each of the reasons set forth above. The plaintiff shall have **through May 17, 2023**, in which to show cause why Judgment consistent with this Order should not issue. *See Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1022 (7th Cir. 2013) ("Without at least an opportunity to amend or to respond to an order to show cause, an IFP applicant's case could be tossed out of court without giving the applicant any timely notice or opportunity to be heard to clarify, contest, or simply request leave to amend."); *Jennings v. City of Indianapolis*, 637 F. App'x 954, 954–955 (7th Cir. 2016) ("In keeping with this court's advice in cases such as *Luevano* . . . , the court gave Jennings 14 days in which to show cause why the case should not be dismissed on that basis.").

IT IS SO ORDERED.

Date: 04/25/2023



JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Distribution:

JASPER FRAZIER
000799545B
East Jersey State Prison
1100 Woodbridge Road
Rahway, NJ 07065

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASPER FRAZIER,)
Plaintiff,)
v.) No. 1:22-cv-02466-JRS-MJD
ROBERT E. CARTER, et al.,)
Defendants.)

Order Granting Motion to Inform, Denying Motion to Add Defendants and Motion to Amend, Dismissing Action, and Directing Entry of Final Judgment

Plaintiff Jasper Frazier is a prisoner currently incarcerated at the East Jersey State Prison in Rahway, New Jersey. He filed this civil action alleging that, in the course of his transfer from Indiana to New Jersey, Indiana prison officials and others violated his constitutional rights. The Court previously screened Mr. Frazier's complaint as required by 28 U.S.C. § 1915A, dismissed it for failure to state a claim upon which relief can be granted, and directed Mr. Frazier to show cause why judgment should not issue. Dkt. 27. Mr. Frazier has responded by filing a motion to inform, a motion to add defendants, and a motion to amend.

I. Motion to Inform

Mr. Frazier was transferred from the custody of the Indiana Department of Correction ("IDOC") to New Jersey state prison as part of a settlement of several lawsuits in this Court. His claims in this case are based on his alleged mistreatment in New Jersey state prison. In screening the complaint, the Court explained that none of the defendants in this case, who are IDOC officials, employees of the Indiana Attorney General's Office, and private lawyers who represented him on

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a volunteer basis in the cases that settled, have any personal responsibility for his treatment in New Jersey. Dkt. 27 at 3.

In his motion to inform, Mr. Frazier presents a copy of the contract between Indiana and New Jersey that implements the interstate corrections compact. The motion to inform, dkt. [30], is **GRANTED** to the extent that the Court has received that contract. But the contract does not alter the Court's conclusion that the defendants were not personally responsible for Mr. Frazier's treatment in New Jersey. Indeed, many provisions of that contract specifically state that the conditions of a prisoner's confinement are the responsibility of the receiving state, in this case, New Jersey. *See, e.g.*, dkt. 30 at 32.

II. Motion to Add Defendants

In his motion to add defendants, Mr. Frazier seeks to add Action Staffing Inc. as a defendant. That motion, dkt. [31], is **DENIED** because it does not comply with the requirement of Local Rule 15-1 that "amendments to a pleading must reproduce the entire pleading as amended."

III. Motion to Amend

Mr. Frazier did attach a proposed amended complaint to his motion to amend, but the proposed amended complaint largely repeats the allegations of the original complaint that was dismissed, and Mr. Frazier has failed to show why the complaint should not be dismissed. Because the proposed amended complaint fails to state a claim for relief, the motion to amend, dkt. [32], is **DENIED**.

IV. Conclusion

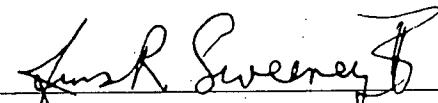
Because Mr. Frazier sued Indiana state officials and lawyers for alleged wrongdoing by New Jersey state prison officials, the Court dismissed his complaint for failure to state a claim upon which relief can be granted. Dkt. 27. None of Mr. Frazier's filings demonstrate any error in

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that ruling. Accordingly, this action is now dismissed for failure to state a claim.¹ Mr. Frazier's motion to inform, dkt. [30], is **GRANTED**. His motion to add defendants, dkt. [31], and motion to amend, dkt. [32], are each **DENIED**. Final judgment shall now issue.

IT IS SO ORDERED.

Date: 06/22/2023



JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Distribution:

JASPER FRAZIER
000799545B
East Jersey State Prison
1100 Woodbridge Road
Rahway, NJ 07065

¹ The Court notes, as it did in its screening order, that Mr. Frazier is in fact pursuing claims based on the conditions of his confinement in New Jersey in federal court in New Jersey. *See Frazier v. Kuhn, et al.*, 2:21-cv-16842 BRM CLW (D. NJ.).

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASPER FRAZIER,)
Plaintiff,)
v.) No. 1:22-cv-02466-JRS-MJD
ROBERT E. CARTER, et al.,)
Defendants.)

FINAL JUDGMENT

The Court now enters FINAL JUDGMENT.

Judgment is entered in favor of the defendants. The plaintiff shall take nothing by his complaint and this action is dismissed.

Date: 6/21/2023

Roger A.G. Sharpe, Clerk

BY: Samantha Burmester
Deputy Clerk, U.S. District Court

James R. Sweeney II
JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Distribution:

JASPER FRAZIER
000799545B
East Jersey State Prison
1100 Woodbridge Road
Rahway, NJ 07065

Appendix B

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

May 6, 2024

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-2344

JASPER FRAZIER,
Plaintiff-Appellant,

v.

Appeal from the United States District
Court for the Southern District of
Indiana, Indianapolis Division.

ROBERT E. CARTER, et al.,
Defendants-Appellees.

No. 1:22-cv-02466-JRS-MJD

James R. Sweeney II,
Judge.

ORDER

On consideration of the petition for rehearing and for rehearing en banc filed by Plaintiff-Appellant on April 16, 2024, no judge in active service has requested a vote on the petition for rehearing en banc, and the judges on the original panel have voted to deny rehearing.

Accordingly, the petition for rehearing is DENIED.

APPENDIX C

Petitioner Writ of Certiorari
Liability Appendix Exhibits

Page number

Release And Settlement Agreement
to Dismiss (4) Federal 42 USC 1983
U.S. Dist. Court For the Southern District
of Indiana 3/1/2021

Pa 1

Petitioner Atty. Jessica A. Weiss never
file a stipulation on Petitioner behalf
(1) inmate. Religions Preference; Access
to Legal materials for 7th Cir. District Court
And Appellate Courts for Indiana etc. Order
by Federal U.S. District Court Judge M. J.
Dinsmore 3/15/2021 1P6

Pa 2

Petitioner Religious Preference Indiana
Dept of Corrections as M.S.T.A. or moor
Before arrive in New Jersey Penalsystem
Place in his classification folder by
Respondent(s) 1P6

Pa 3

Respondent(s) Sign a contract with
STATE of New Jersey Statute Ann. 30:7C-1 et seq.
And Petitioner to be incarcerated in New Jersey
Under Interstate Corrections Compact Contract
for Services 1SP6s

Pa 4

Petitioner writ of certiorari

Liability Appendix Exhibits

	Page number
New Jersey Department of Correction IOA: 17-5.21 Files and Records (A) Policy Religious Preference Place in Classification Folder before enter.	Pg 5
New Jersey Department of Correction Freedom of Religion Policy IOA 17-5.1	Pg 6
New Jersey Department of Correction Policy IOA: 1-1b Inventory of Personal Property (B): In front of Petitioner Violated by receiving state	Pg 7
Petitioner arrive in New Jersey Department of Correction → 6/21/2021 Southwood State Prison confiscate (3) legal books for litigation AGCinst Juicava → Northern State Prison → East Jersey State Prison 3TV's -	Pg 8

Petitioner Writ of certiorari
Liability Appendix Exhibits

Page number

confiscation religious materials to present moment, Respondents fail to Govern Petitioner Constitutional Rights to Present moment. Pg 8

Petitioner unable to litigate Federal habeas corpus Petition - (3) legal books taken Frazier v. Commissioner, Indiana Department of Correction 1:21-cv-01011-RUE TAB 1 Pg 9

Petitioner filing Federal complaint new Jersey Commissioner Victoria L Kuhn et. al defendant's Dist. of NJ 2:21-cv-16842-(Brm)-(CLW); Denied Access to Courts confiscation over 500 Piece's legal mail out/incoming Indiana State, Federal New Jersey Appellate, Federal "ongoing" Violation F.C.A. Federal Communication Act. Failure to Protect us in a Black marker Pg 10

Petitioner writ of certiorari
Liability APPENDIX Exhibits

Page number

to robust postal date, hold for 2-3
months, then falsified in legal
book date arrive at Facility,
Denied to practice religion confiscation
of incoming religious mail, contact
Post master General to have Petitioner
outgoing mail come back as undeliver-
able and Place confidential Informants
to monitor Petitioner and his family emails
on JACN Kiosk "Federal Crime" 18U.S.C § 2510
36PGS. Defendant's confiscated Summons - Complaints

Respondent's Place Petitioner in lock up P11
11 times, 3 times without charges, confiscate P11(A)
legal materials, Place in cell with no
heat, electricity, cleaning supplies,
adequate medical care for 3.5 years Pain
in legs, Swollen hands resulting Beta-
Thalassemia's Trait: I denied to outside
Specialist, Place Petitioner in cell with
inmates smoking KZ, endanger his health
re: Frazier v. Resgle et. AL defendant's -

Petitioner's writ of certiorari
Liability Appendix Exhibits

Page number

District of New Jersey 24-cv-1151-
(ES) - (CLW) Page 11
Page 11(A)

Petitioner Summary Judgment
Confiscated at East Jersey State Prison
1/19/2024 61POS - Northern State Prison
3/22/2024 874POS re: Frazier v. Garb et al
defendants District of Southern Indiana

Petitioner denied to communicate with his sentence Judge and Attorney in Indiana (2)POS Page 13

Petitioner writing District of New Jersey Federal Judge Waldr why he refuse housing Place in lock up for not wanting to be cell with inmates smoking K2, Getting naked or Pranking out 100 days in lock up 100 days Good time taken And 30 days loss of all Priviledges Jpart, emails, music And recreation

Petitioner unit of certiorari
Liability Appendix Exhibits

Page number

East Jersey State Prison Administrator's Page 15
Goy Nathon And Douglas Stark
Calling mental health on Petitioner
Saying he "crazy" about abuse done
to him "Defamation of character"

Petitioner filing racial discrimination Page 16
complaint against State of New Jersey
Department of correction; religious
discrimination with N. A. A. C. P.

**Additional material
from this filing is
available in the
Clerk's Office.**