

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT *PRO SE*

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IN THE COURT OF APPEALS OF INDIANA

Kevin L. Martin,
Appellant / Plaintiff,

v.

Caseworker J. Meek,
Appellee / Defendant.

July 21, 2021

Court of Appeals Case No.
21A-CT-596

Appeal from the St. Joseph
Superior Court

The Hon. Margot F. Reagan,
Judge

Trial Court Cause No.
71D04-1904-CT-161

Bradford, Chief Judge.

Case Summary

[1] In 2018, Kevin Martin was incarcerated when he gave two legal mailings to his caseworker J. Meeks, only one of which reached its intended destination. In March of 2019, Martin filed a tort suit against Meeks and three others for allegedly violating various of his state and federal constitutional rights, seeking money damages and an injunction. In January of 2021, Meeks, by then the final remaining defendant, moved for summary judgment, which motion the trial court granted. Martin contends that the trial court erred in granting summary judgment to Meeks and abused its discretion in not allowing him to freely amend his complaint. Martin also contends that the trial judge was personally biased against him. Because we disagree, we affirm.

Facts and Procedural History

[2] In 2018, Meeks was Martin's unit caseworker at Wabash Valley Correctional Facility, where Martin was incarcerated at the time. On September 5, 2018, he handed Meeks requests for admissions related to another of his cases to be delivered to the facility's mail room. One request was addressed to Martin's trial counsel and the other to his appellate counsel, but only his appellate counsel received the request for admissions. After Martin gave Meeks the legal mail, she forwarded it to the mailroom. Martin only knew that he had given the requests for admissions to Meeks and did not know what had happened to them after that. Meeks never worked in the facility's mailroom and was not responsible for mailing Martin's documents.

[3] On March 8, 2019, Martin filed a tort complaint in Sullivan Circuit Court, naming Meeks and three others as defendants. Martin alleged that Meeks and the other defendants had lost or damaged his mail, made claims pursuant to the Indiana and United States Constitutions, sought \$250,000.00 in compensatory and punitive damages, and requested an injunction to prevent defendants from violating his constitutional rights in the future. The case was transferred to St. Joseph Superior Court on April 29, 2019. On January 16, 2020, the trial court granted summary judgment in favor of two of the defendants and, on December 21, 2020, granted Martin's motion to withdraw a third, leaving Meeks as the only remaining defendant. On January 20, 2021, Meeks moved for summary judgment, which motion the trial court granted on March 7, 2021. The trial court granted summary judgment on the bases that (1) Martin could not recover money damages pursuant to his Indiana constitutional claims, (2) his 42 U.S.C. § 1983 claims failed because there was no designated evidence that Meeks was personally involved in the alleged violation of his rights, (3) he had no claim pursuant to the Fifth Amendment's due process clause because it does not apply to state actors like Meeks, and (4) he was not entitled to an injunction because there was no designated evidence of an active concern regarding Meeks's delivery of his legal mail.

Discussion and Decision

[4] Martin argues that the trial court erred in entering summary judgment in favor of Meeks. When reviewing the grant or denial of a summary judgment motion, we apply the same standard as the trial court. *Merchs. Nat'l Bank v. Simrell's*

Sports Bar & Grill, Inc., 741 N.E.2d 383, 386 (Ind. Ct. App. 2000). Summary judgment is appropriate only where the evidence shows that there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Id.*; Ind. Trial Rule 56(C). To prevail on a motion for summary judgment, a party must demonstrate that the undisputed material facts negate at least one element of the other party’s claim. *Merchs. Nat’l Bank*, 741 N.E.2d at 386. Once the moving party has met this burden with a *prima facie* showing, the burden shifts to the nonmoving party to establish that a genuine issue does in fact exist. *Id.* The party appealing the summary judgment bears the burden of persuading us that the trial court erred. *Id.* “In determining whether there is a genuine issue of material fact precluding summary judgment, all doubts must be resolved against the moving party and the facts set forth by the party opposing the motion must be accepted as true.” *Lawlis v. Kightlinger & Gray*, 562 N.E.2d 435, 438–39 (Ind. Ct. App. 1990), *trans. denied*. Although Martin does not challenge any of the legal bases on which the trial court granted summary judgment to Meeks, we choose to address them on their merits.

I. Monetary Damages for Alleged State Constitutional Violations

[5] Martin sought damages pursuant to Article 1, sections 9, 12, and 23, of the Indiana Constitution, particularly alleging that he was denied access to the courts. It is, however, well-established that the Indiana Constitution does not confer an express or implied right of action for damages. *See, e.g., Hoagland v. Franklin Twp. Cmty. Sch. Corp.*, 10 N.E.3d 1034, 1040 (Ind. Ct. App. 2014),

trans. granted and aff'd in relevant part, 27 N.E.3d 737, 741 (Ind. 2015) (“We summarily affirm the Court of Appeals in its holding that Indiana’s Education Clause does not provide an individual with a private right of action for monetary damages”); *City of Indpls. v. Cox*, 20 N.E.3d 201, 212 (Ind. Ct. App. 2014) (rejecting claim under Article 1, section 23, because “no Indiana court has explicitly recognized a private right of action for monetary damages under the Indiana Constitution”), *trans. denied*. The trial court correctly granted Meeks summary judgment on Martin’s claims for money damages based on alleged violations of the Indiana Constitution.

II. § 1983 Claims

[6] The trial court treated Martin’s federal claims as being brought pursuant to 42 U.S.C. § 1983 and concluded that there was no designated evidence that Meeks had had any involvement in the alleged deprivation of his federal constitutional rights. Section 1983 provides, in relevant part, as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress[.]

42 U.S.C. § 1983. Section 1983 provides a civil remedy against a person who, under color of state law, subjects a United States citizen to the deprivation of any rights, privileges, or immunities secured by the federal Constitution or federal laws. *Long v. Durnil*, 697 N.E.2d 100, 105 (Ind. Ct. App. 1998), *trans.*

denied. Section 1983 was designed to prevent the states from violating the Constitution and certain federal statutes and to compensate injured plaintiffs for deprivations of those federal rights. *Culver-Union Twp. Ambulance Serv. v. Steindler*, 629 N.E.2d 1231, 1233 (Ind. 1994). A defendant, however, can only be held liable pursuant to § 1983 for deprivations that she personally caused, either by direct action or by approval of the conduct of others. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1979); *Moore v. Ind.*, 999 F.2d 1125, 1129 (7th Cir. 1993).

[7] In support of her motion for summary judgment, Meeks designed the transcript of a video deposition of Martin, which he testified that he did not know what had happened to his legal mail, Meeks had never worked in the facility's mailroom and had not been responsible for mailing out Martin's documents, Meeks had simply forwarded the documents to the mailroom, and he did not know what had happened to the requests for admissions after he handed them to Meeks. In other words, there is no designated evidence that Meeks committed any direct action that could have violated Martin's federal constitutional rights, even assuming that destruction of his legal mail would qualify. The trial court correctly concluded that Meeks was therefore entitled to summary judgment on Martin's First and Fourteenth Amendment claims.

III. Due Process Claims

[8] The Due Process Clause of the Fifth Amendment provides that no person "shall be deprived of life, liberty, or property, without due process of law." Martin's Fifth Amendment claim appears to be that Meeks maliciously, willfully, and

wantonly destroyed his requests for admissions. The Due Process Clause of the Fifth Amendment, however, does not apply to state agencies and state actors.

“The Fifth Amendment’s due process clause applies only to acts of the federal government and does not limit actions of state officials.” *Wrinkles v. Davis*, 311 F. Supp. 2d 735, 738 (N.D. Ind. 2004).

[9] That said, Martin’s claim that Meeks maliciously, willfully, and wantonly destroyed his requests for admissions may be interpreted as relying on both the Fourteenth and Fifth Amendment’s Due Process Clauses, and the Fourteenth Amendment’s Due Process Clause *does* apply to state actors. *Estate of Connor by Conner v. Ambrose*, 990 F. Supp. 606, 615 (N.D. Ind. 1997). As explained above, however, Martin’s § 1983 Claim fails because there is no designated evidence that Meeks committed any direct action that could have violated his federal constitutional rights. The court properly concluded that Martin’s Fifth Amendment and Fourteenth Amendment due-process claims were without merit.

IV. Injunction

[10] The trial court concluded that Martin is not entitled to injunctive relief because “there is no active concern related to the delivering of Mr. Martin’s mail by Ms. Meeks.” Appellee’s App. Vol. II p. 163. Martin only requested an injunction to prevent defendants from interfering with his constitutional rights in the future. However, “[a]n injunction will not be issued where the plaintiff cannot demonstrate ‘the present existence of an actual threat that the action sought to be enjoined will come about.’” *Highland Springs S. Homeowners Ass’n v.*

Reinstatler, 907 N.E.2d 1067, 1073 (Ind. Ct. App. 2009) (quoting *Adams v. City of Fort Wayne*, 423 N.E.2d 647, 651 (Ind. Ct. App. 1981)), *trans. denied*. As mentioned, there is no designated evidence that Meeks ever violated any of Martin’s constitutional rights by maliciously mishandling his legal mail, so Martin’s concern that Meeks will do so in the future is “sheer speculation and conjecture,” *Adams*, 423 N.E.2d at 652, and cannot be a proper basis for injunctive relief. The trial court correctly denied Martin injunctive relief.

V. Other Claims

[11] Martin contends that the trial court abused its discretion in failing to grant him leave to freely amend his complaint. As Meeks points out, however, the record contains no indication that such a request was ever made or denied, much less a copy of such a request. We cannot review a trial court ruling that it seems was never made or even requested. Finally, Martin also claims that the trial court judge in this case was biased against him. A judge is presumed by law to be unbiased and unprejudiced. *Clemens v. State*, 610 N.E.2d 236, 244 (Ind. 1993). To overcome this presumption, the party seeking to disqualify a judge must establish actual personal bias. *Smith v. State*, 535 N.E.2d 1155, 1157 (Ind. 1989); *Dahlin v. Amoco Oil Corp.*, 567 N.E.2d 806, 813 (Ind. Ct. App. 1991), *trans. denied*. A mere allegation of bias, without a specific factual showing in support, is insufficient to require disqualification. *Blair v. Emmert*, 495 N.E.2d 769, 772 (Ind. Ct. App. 1986), *trans. denied*. Adverse rulings are insufficient to show bias *per se*. *Taylor v. State*, 587 N.E.2d 1293, 1303 (Ind. 1992). Here, Martin seems to argue that Judge Reagan had a personal interest in the

outcome of this case and points to several apparently adverse decisions by her. Martin, however, does not explain just how Judge Reagan has a personal interest in the outcome of this case, and the mere existence of adverse rulings is insufficient to establish judicial bias. *See id.* We conclude that Martin has failed to establish judicial bias.

[12] We affirm the judgment of the trial court.

Mathias, J., and Brown, J., concur.