

United States Court of Appeals
for the Fifth Circuit

No. 26-10046
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 22, 2026

Thomas B. Plunkett, III
Clerk

KEVIN ZIMMER,

Plaintiff—Appellant,

versus

HEATHER ESTRADA; MICHAEL TURNER; COURTLY PARKER;
CITY OF DALLAS,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-2505

Before DAVIS, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Plaintiff-Appellant Kevin Zimmer, appearing pro se, sued Defendants-Appellees Heather Estrada, Michael Turner, Courtly Parker, and the City of Dallas, alleging his dismissal from Love Field's Love Helpers program and the related revocation of his airport identification card violated

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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Title II of the Americans with Disabilities Act,¹ Section 504 of the Rehabilitation Act of 1973,² 42 U.S.C. § 1983, and state law. The district court granted Defendants’ Rule 12(b)(6) motion and dismissed Zimmer’s amended complaint with prejudice after concluding he had stated his best case. We AFFIRM.

Zimmer is a doctoral student at MIT in Cambridge, Massachusetts, though he lives in Dallas, Texas. His pro se complaint alleges he has autism, which significantly limits his ability to communicate and interact with others.

In 2017, Zimmer began volunteering with Love Field’s Love Helpers Program where he assisted travelers and staffed an information booth. In connection with that endeavor, Zimmer was issued an airport identification card, which gave him access to areas of the airport not open to the public. Estrada, Parker, and Turner are City employees who work at Love Field and are named as defendants in their individual and official capacities.

According to the complaint, Estrada and Parker perceived that Zimmer was “odd” so in August 2023, conspired with Turner to revoke Zimmer’s airport identification and eject him from the Love Helpers program. Zimmer alleges the reasons given for his dismissal—that he was “suspicious” and used his airport identification at a TSA checkpoint for personal travel—were pretextual and that he was wrongfully denied an administrative appeal of the decision revoking his airport identification. He also claims the individual defendants defamed him and that the City had a policy or custom of training Love Field employees to distrust socially awkward individuals. He does not seek damages, only injunctive relief.

¹ See 42 U.S.C. § 12132.

² See 29 U.S.C. § 794(a).

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Among other things, he seeks reinstatement and the return of his airport identification.

Acting on the recommendation of a magistrate judge, the district court granted Defendants' Rule 12(b)(6) motion and dismissed Zimmer's suit with prejudice. Our review is de novo, accepting all well-pleaded facts in Zimmer's complaint as true.³

The ADA and Rehabilitation Act employ many of the same legal standards so are "interpreted *in pari materia*." ⁴ To avoid dismissal, a plaintiff must plausibly allege:

(1) that he is a qualified individual . . . ; (2) that he is being excluded from participation in, or being denied benefits of, services, programs, or activities for which the public entity is responsible, or is otherwise being discriminated against by the public entity; and (3) that such exclusion, denial of benefits, or discrimination is by reason of his disability.⁵

The district court dismissed on the third element, finding the complaint did not plausibly plead that Defendants excluded Zimmer from the Love Helpers program "by reason of his disability."

We agree with this assessment. Zimmer alleges: (1) the reasons given for his dismissal were pretextual, (2) that the real reason was Defendants' distrust of people who are odd or socially awkward, and (3) that these traits flow from his autism. But he does not allege he told anyone in the volunteer program that he was autistic, and merely having an odd or socially awkward

³ See *McKay v. LaCroix*, 117 F.4th 741, 746 (5th Cir. 2024).

⁴ *Clark v. Dep't of Pub. Safety*, 63 F.4th 466, 470 (5th Cir. 2023) (per curiam) (quoting *Frame v. City of Arlington*, 657 F.3d 215, 223 (5th Cir. 2011)).

⁵ *T.O. v. Fort Bend Indep. Sch. Dist.*, 2 F.4th 407, 417 (5th Cir. 2021) (quoting *Melton v. Dall. Area Rapid Transit*, 391 F.3d 669, 672–73 (5th Cir. 2004)).

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personality does not mean a person is autistic. And even assuming some observers might suspect autism from social awkwardness, the question here is what *these* Defendants actually perceived. Zimmer pleads no facts indicating that Defendants knew of, or connected these traits to, autism or any other impairment. Without that connection, the complaint does not plausibly allege Zimmer's exclusion was "by reason of his disability."

Zimmer also brings a disparate-impact claim arising from Parker's "practice" of equating individuals who are "a bit odd" as "red flags," which Zimmer claims disproportionately impacted autistic people. The district court dismissed this claim after applying the pleading standards under Title I of the ADA⁶ and Title VII of the Civil Rights Act of 1964.⁷ The parties don't challenge the pleading standard used by the district court, so we assume the same framework: a plaintiff must identify a facially neutral practice, a disparate effect on the protected class, and a causal connection between the two.⁸ Zimmer argues that oddness is more common among autistic people, so a practice penalizing it will "inevitably" burden them. But the complaint pleads no facts indicating that Parker's view had a disparate effect. A general correlation between a trait and a protected class does not show that a given practice caused a disparity in a particular case.⁹

Zimmer's due-process claim also fails for reasons given by the district court, which found no cognizable vested interest in a volunteer position or identification card and no occupational liberty interest alleged in the complaint. The district court independently dismissed because Zimmer did

⁶ See 42 U.S.C. §§ 12111–12117.

⁷ See 42 U.S.C. § 2000e et seq.

⁸ See *McClain v. Lufkin Indus., Inc.*, 519 F.3d 264, 275 (5th Cir. 2008).

⁹ Cf. *Johnson v. Uncle Ben's, Inc.*, 965 F.2d 1363, 1368–69 (5th Cir. 1992).

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not plead a *Monell* claim against the City.¹⁰ Zimmer’s opening brief does not address the *Monell* aspect of the district court’s ruling, so any challenge is forfeited.¹¹ That forfeiture resolves the claims against the City and the individual defendants in their official capacities.¹² The remaining individual-capacity claims for injunctive relief fail because the relief sought—Zimmer’s reinstatement and the return of his airport identification—can be effected only by Love Field employees acting in their official, not personal, capacities.¹³ Forfeiture also resolves the state claims, which the district court dismissed under § 101.106(f) of the Texas Tort Claims Act. Zimmer does not address this aspect of the court’s decision.¹⁴

Zimmer contends dismissal should have been without prejudice because the district court refused to allow him to amend a second time. But we find no abuse of discretion by the district court in denying him leave to amend again. Zimmer offered to amend more than once—in his opposition to the Rule 12(b)(6) motion, in his objections to the R&R, and in his briefs here. But he never identified any new facts he would plead if given the

¹⁰ See *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978).

¹¹ See *Rollins v. Home Depot USA*, 8 F.4th 393, 397 & n.1 (5th Cir. 2021); *Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995) (per curiam) (“[P]ro se parties must still brief the issues and reasonably comply with the standards of Rule 28.”).

¹² See *Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (“As long as the government entity receives notice and an opportunity to respond, an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity.”).

¹³ See *Scott v. Flowers*, 910 F.2d 201, 213 & n.25 (5th Cir. 1990).

¹⁴ Zimmer requests that any immunity-based dismissal be without prejudice. But cities don’t enjoy Eleventh Amendment immunity, see *Tercero v. Tex. Southmost Coll. Dist.*, 989 F.3d 291, 296–97 (5th Cir. 2021), and § 101.106(f) entitles the employees to dismissal.

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chance.¹⁵ We also find no abuse of discretion in the denial of the motion for appointed counsel.¹⁶ AFFIRMED.

¹⁵ A “bare bones request to amend pleadings remains futile when it fails to apprise the district court of the facts that the plaintiff would plead in an amended complaint.” *Porretto v. City of Galveston Park Bd. of Trs.*, 113 F.4th 469, 491 (5th Cir. 2024) (cleaned up).

¹⁶ See *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982).