

Amicus Brief Urges Seventh Circuit to Reverse Lower Court's Dismissal of Pro Se Litigant's Case

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In *Cordell Sanders v. Michael Melvin, et al.*, the district court dismissed a plaintiff's entire case as a sanction based on imprecise allegations the plaintiff — who is mentally ill and had been housed in solitary confinement for years—had included in their years-old, pro se complaint, and did so despite that a pending summary judgment motion showed a factual dispute regarding those allegations. This dismissal is now on appeal.

Led by Dean Erwin Chemerinsky, *amici* are five legal professors who are experts on civil rights litigation, civil procedure, federal procedure, and the application of pleading standards to pro se litigants. They urge the Seventh Circuit to reverse the lower court's decision and remand for further proceedings. They argue that affirming such a dismissal would be contrary to the established principles of leniency afforded pro se and inmate litigants, would violate the well-known rule that sanctions be narrowly-tailored to misconduct, and would contravene the policy favoring resolving cases on their merits, among other things. The legal system, they note, is complex and challenging — “especially for those without legal training.” They argue that the Seventh Circuit has held “that courts have an affirmative obligation to ensure that a pro se litigant's claims are not dismissed as a result of procedural unfairness.” In this case, they argue, the district court was “particularly harsh and unnecessarily punitive.” Regarding sanctions against the litigant, the brief notes that “less draconian” alternatives are available. And dismissal with prejudice, according to the brief, is the “most severe” sanction that should be meted out “only with extreme caution.” “Sanctions should be used as a scalpel to surgically address issues where appropriate, not as a sledgehammer to squash an entire case,” the brief reads.

The team writing the brief pro bono includes Partner Gabriel K. Gillett and Associates Grace C. Signorelli-Cassady, Jeremy M. Sawyer, and Elena M. Olivieri, with valuable assistance from Paralegal Mary Frances Patston.

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