NOT RECOMMENDED FOR PUBLICATION
File Name: 26a0440n.06

No. 26-1152

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 30, 2026
KELLY L. STEPHENS, Clerk

CLIFTON MURIE, Plaintiff-Appellant, v. NORTHWESTERN MICHIGAN COLLEGE, et al. Defendants-Appellees.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN OPINION

Before: GRIFFIN, BUSH, and HERMANDORFER, Circuit Judges.

JOHN K. BUSH, Circuit Judge. This case arose from conflicts between a college and a long-time student with strong opinions about student government and other issues. The student, Clifton Murie, alleges that the college took adverse actions against him, including improperly influencing his prosecution for trespass and excluding him from extracurricular activities, because of those opinions. He brought First Amendment retaliation claims as well as federal- and state-law malicious prosecution claims against the college and several of its employees. The district court dismissed some of those claims and granted summary judgment to defendants on the rest. Murie appeals those decisions. Because he hasn't shown a sufficient connection between the college's actions and his strong opinions, we **AFFIRM.**

I.

Clifton Murie enrolled at Northwestern Michigan College in 1984. His complaint recounts roughly four decades of conflict with the college, but only two episodes are at issue in this appeal: his 2019 prosecution for trespass and the college's 2021 disciplinary action against him.

Murie wanted to raise his longstanding concerns about the college at a meeting of the student government association (SGA) on November 1, 2019. A week earlier, the SGA's Staff Advisor, Paul Kolak, told Murie that he wasn't allowed to attend the meeting because it was limited to just students enrolled in courses for academic credit. Murie was enrolled only in a noncredit seminar. Nevertheless, he disputed his exclusion and went to campus to try to attend the meeting anyway.

Shortly after the meeting began, Murie reached the door to the classroom where it was being held. The door was closed. Standing near the door were three security officers. Undeterred by the officers' presence, Murie pulled the door handle. It was locked. He then looked inside the classroom through the adjacent window, pulled on the handle again, but still couldn't open the door. His entrance thwarted, Murie stood outside the meeting room for about ten minutes, periodically walking away and returning.

Meanwhile, on the other side of the door, the meeting proceeded. Kolak testified that, as he sat in the classroom, he heard a "pounding" on the window, saw Murie's face in the window, and then heard the door handle "rattling." R. 55-3, Kolak Dep., PageID 1215. According to Kolak, the pounding was "loud enough to startle" those in the room. *Id.* After students expressed concern for their safety, the SGA recessed for ten minutes.

One of the security personnel, Jim White, asked Murie to leave the premises. In response, Murie called the police to report that college security was harassing him. The Traverse City Police

Department (TCPD) sent two officers to campus. One of them, Officer Bock, said White told him on arrival that Murie was "banging on the doors and windows" and "stood in the doorway and would not let students or staff in or out of the meeting." R. 51-5, Bock Report, PageID 889. White also expressed to Officer Bock that "he would like Murie trespassed for six months from NMC property," meaning he wanted Murie to be barred from entering the college's property for six months. The officers warned Murie that if he did not leave, he would be arrested. Murie responded by calling the police again to request a superior officer. The officers who arrived repeated the warning, Murie refused to leave, and they arrested him.

Following the arrest, an officer asked White for a list of the students inside the classroom so police could question witnesses and investigate possible false-imprisonment charges. White relayed the request to Kolak, who wrote an email describing the day's events and listing the students. The email reported Murie's pounding, rattling, and the ten-minute recess described above, but it also stated that guest speakers were able to enter and exit freely. Kolak sent the email to White, copying Todd Neibauer, Vice President for Student Services and Technologies at the college, who wasn't present during the meeting. Neibauer later reviewed security footage of the incident, and White forwarded the email to TCPD.

A state prosecutor filed a criminal complaint against Murie for trespass on November 12, 2019. She dropped the charges on December 4, 2020. But that wasn't the end of the controversy.

In spring 2021, Murie reenrolled as a for-credit student, which made him eligible to join the SGA. He petitioned for a position in the SGA, and its members elected him secretary. He used that post to press the same longstanding concerns he had sought to raise in 2019. He continually raised those issues at SGA meetings, by email to other members, and on Discord, a web-based chat program the SGA set up for communication among its members.

Tensions within the SGA grew as Murie continued to express his views. Conflict came to a head when the SGA president abruptly canceled a meeting and members circulated a survey to address their feelings about personal safety. One SGA member, Kenneth Berkstresser, filed a "red flag" complaint, which allows a student to allege a violation of the college's student code of conduct. He alleged that Murie repeatedly harassed, badgered, and insulted him and other SGA members and interrupted SGA meetings. But Murie's complaint alleges that he never threatened or intimidated SGA members.

Leanne Baumeler, the college's Disability Support Coordinator, and Marcus Bennett, the Associate Dean of Campus Life, investigated the red flag complaint. They interviewed Murie and other SGA members, reviewed Murie's communications with SGA members, and documented their findings in a document known as the "red flag report." According to the red flag report, members said that Murie posted on the SGA Discord a poem about "snowflakes" aimed at other members, called one member "the college's dog," continually sent aggressive emails to individual members, and didn't respect boundaries that others tried to establish with him. R. 10-4, Red Flag Report, PageID 160–69. Murie admitted in his interview that he mocked other SGA members and said he intended to keep disrupting SGA meetings because he felt the SGA was ineffective and poorly managed. The report concluded that Murie violated the student code of conduct's prohibitions on harassment and disruption of college activities.

After reviewing the red flag report, Todd Neibauer agreed with its findings and issued a "Final Disciplinary Ruling" that excluded Murie from extracurricular activities for one year, removed him from the SGA, and barred him from contacting SGA members. Under a procedure set by the code of conduct, Murie appealed to a three-member panel: Tony Jenkins, chair of the

College Review Board; Chad Schenkelburger, a faculty member; and one student. The panel upheld the disciplinary ruling.

Murie then sued the college, its board of trustees, and the employees identified above. He brought First Amendment retaliation claims under 42 U.S.C. § 1983 against all defendants, and malicious prosecution claims under § 1983 and state law against White, Kolak, Neibauer, and the Board. The district court dismissed his First Amendment retaliation and state-law malicious prosecution claims, as well as his federal-law malicious prosecution claim against the Board, under Federal Rule of Civil Procedure 12(b)(6). The district court later granted White, Kolak, and Neibauer summary judgment under Federal Rule of Civil Procedure 56(a) on the remaining federal-law malicious prosecution claims. Murie challenges both rulings in a timely appeal of the district court's final judgment.

II.

We review dismissals under Rule 12(b)(6) de novo. *Bassett v. Nat'l Coll. Athletic Ass'n*, 528 F.3d 426, 430 (6th Cir. 2008). We accept the complaint's factual allegations as true and construe the complaint in the plaintiff's favor. *Id.* And we may consider documents referenced in the complaint and central to the plaintiff's claims. *Id.* To survive dismissal, a complaint must allege sufficient facts to state a plausible claim for relief. *Id.*

Murie's complaint referenced Kolak's email, the criminal complaint, and the red flag report. Those documents are central to the complaint, and Murie attached them to his response to defendants' motion to dismiss without objection from defendants. We therefore consider them in reviewing the district court's dismissal under Rule 12(b)(6). *See Spencer v. Grand River Navigation Co.*, 644 F. App'x 559, 561–62 & n. 1 (6th Cir. 2016).

As for the summary judgment motion under Rule 56(a), we also review de novo, drawing all reasonable inferences in the nonmovant's favor. *Bassett*, 528 F.3d at 430. To survive a summary judgment motion, there must be no genuine dispute of material fact that precludes granting a claim to judgment as a matter of law. Fed. R. Civ. P. 56(a).

III.

A.

To state a First Amendment retaliation claim, Murie must plausibly allege that (1) he engaged in constitutionally protected activity, (2) defendants took an adverse action against him, and (3) they took that adverse action at least in part because of his protected activity. *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). The district court dismissed Murie's First Amendment retaliation claim under Rule 12(b)(6). In this claim, Murie alleges that defendants took two adverse actions against him in retaliation for his constitutionally protected activity: (1) the 2019 trespass arrest and prosecution and (2) the 2021 red flag discipline. We address each alleged adverse action in turn.

Murie's retaliation claim is subject to a three-year statute of limitations, which began to run when he knew or had reason to know of the injury. *Scott v. Ambani*, 577 F.3d 642, 646 (6th Cir. 2009). Because Murie was arrested on November 1, 2019, but did not file his complaint until November 11, 2022, more than three years later, to the extent the retaliation claim is rooted in the arrest, it is therefore time-barred.

But Murie's complaint may also be read to allege that defendants retaliated for his attempt to raise his concerns with the SGA by making false statements to police that caused his

prosecution, as distinct from his arrest. Even assuming that theory is timely[1] and that Murie's attempt to speak was constitutionally protected, he pleads no facts plausibly showing that defendants made the allegedly false statements at least in part because of his attempt to speak at the November SGA meeting, as the third element of First Amendment retaliation requires. *See Thaddeus-X*, 175 F.3d at 394.

By his own account, Murie called the police, who warned him to leave or face arrest, and then he refused to leave, resulting in this arrest. Police next asked the college for information, and White forwarded Kolak's email in response. That sequence indicates that defendants didn't make the statements in question until the police request for that information. There is no allegation that the statements would have been made otherwise. Kolak's email described Murie's conduct and told police that guest speakers were able to enter and exit freely. That information does not suggest a retaliatory motive. It was only a response to a law enforcement investigative inquiry. Murie therefore has not plausibly alleged that defendants made those statements at least in part because he attempted to raise his concerns with the SGA. So, even if the statute of limitations is no bar, the district court properly dismissed the claim because of Murie's failure to state a claim as to the 2019 prosecution.

Murie also alleges that defendants imposed the 2021 red flag discipline in retaliation for his protected activity. Read generously, his complaint identifies two instances of protected activity: (1) his election as SGA secretary and (2) his raising of concerns during SGA business. The district court dismissed his claim under Rule 12(b)(6) for failure to plead causation. We may

[1] The prosecutor formally filed charges on November 12, 2019, one day within the three-year limitations period.

affirm on any ground the record supports. *Product Solutions Int'l, Inc. v. Aldez Containers, LLC*, 46 F.4th 454, 457–58 (6th Cir. 2022).

As noted, we consider the red flag report in deciding whether Murie has stated a First Amendment retaliation claim. Murie relies on the report and does not allege that it inaccurately recounts its statements or findings. Because we are reviewing a dismissal under Rule 12(b)(6), we accept only that SGA members made the statements the report attributes to them and that investigators reached the findings it describes, without accepting those statements or findings as true. *See Jones v. City of Cincinnati*, 521 F.3d 555, 561 (6th Cir. 2008).

Murie's first theory fails because, even assuming his election as SGA secretary was constitutionally protected activity, he alleges no facts plausibly showing that the red flag discipline was "motivated at least in part" by that election. *See Thaddeus*-X, 175 F.3d at 394. Murie's conclusory assertion that the red flag report shows a retaliatory motive is insufficient. *Harbin-Bey v. Rutter*, 420 F.3d 571, 580 (6th Cir. 2005). The red flag report identifies various reasons for discipline, including "harass[ment]" and "interruption" of meetings, but his mere election is not among them. Nor does Murie allege facts showing otherwise. His own account states that it was not his election as secretary that prompted the investigation; rather, the investigation did not arise until a student complained about his later behavior.

Murie's second theory is that defendants punished him for raising his concerns during SGA business. It fails on either of two readings.

First, Murie alleges that the report labels his advocacy as harassment. It does not. The report says that members complained about how Murie treated them. Members told investigators that Murie mocked them, calling members "snowflakes" and one member "the college's dog," sent aggressive emails to individual members, and interrogated them about topics unrelated to those

discussed during SGA meetings. The report does not state that Murie's raising his concerns was itself harassment. When a document considered part of the pleadings expressly contradicts the complaint's description of it, the document controls. *Croce v. New York Times Co.*, 930 F.3d 787, 792 (6th Cir. 2019). Looking beyond Murie's misread of the report, he fails to plausibly state a claim.

Second, Murie still contends that defendants punished him for his protected advocacy, which the investigators found disrupted the SGA. Student speech that materially and substantially disrupts school activities, or that school officials reasonably forecast will do so, is not constitutionally protected. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 513–14 (1969). That rule extends to speech that disrupts extracurricular activities, such as a school athletic team. *Lowery v. Euverard*, 497 F.3d 584, 588–89, 596 (6th Cir. 2007). And a court may decide whether speech is protected by considering the complaint's allegations concerning disruption. *See Diei v. Boyd*, 116 F.4th 637, 645–46 (6th Cir. 2024) (applying *Tinker*'s disruption standard to a college student's speech as alleged in the complaint).

Murie's complaint and the statements recorded in the red flag report make it implausible to allege that school officials disciplined him based on his policy proposals rather than his substantial disruption of SGA business. Murie alleges that he continually raised his concerns at meetings and through other communications with SGA members, that tensions grew and the SGA president canceled a weekly meeting, and that members circulated a survey addressing their feelings about personal safety. The red flag report records members telling investigators that Murie repeatedly raised grievances unrelated to SGA business and prevented meetings from proceeding as planned. It also states that Murie told investigators that he intended to continue disrupting meetings because he considered the SGA ineffective. Again, we consider the statements

as information given to investigators, without accepting the reported conduct as true. *See Jones*, 521 F.3d at 561. Whether or not investigators correctly apprehended the situation, Murie alleges no reason to doubt that they acted for the reasons they gave. Nor does he connect those reasons to the advocacy he argues was constitutionally protected. Murie therefore has not plausibly alleged that he was disciplined for raising concerns during SGA business, as opposed to harassing members and disturbing meetings.

To summarize, the district court properly dismissed Murie's First Amendment retaliation claim based on either the 2019 trespass arrest and prosecution or the 2021 red flag discipline.

B.

Murie also asserts federal-law malicious prosecution claims against White, Kolak, Neibauer, and the NMC Board, alleging that they gave police false statements that led to his 2019 trespass prosecution. The district court dismissed the claim against the Board under Rule 12(b)(6) and granted White, Kolak, and Neibauer summary judgment.

Murie's malicious prosecution claim requires him to establish, among other elements, that defendants "made, influenced, or participated in the decision to prosecute" him. *Codrington v. Dolak*, 142 F.4th 884, 894–95 (6th Cir. 2025). This element is the focus of our analysis, for we can resolve each federal-law malicious prosecution claim based on Murie's failure to allege facts that plausibly establish its existence.

Murie can satisfy this element by showing that defendants knowingly or recklessly gave officials false information material to the prosecution. *Jones v. Naert*, 121 F.4th 558, 568–69 (6th Cir. 2024). Negligence or innocent mistake is not enough. *Johnson v. Moseley*, 790 F.3d 649, 654–55 (6th Cir. 2015). And modest differences between witness statements or imprecise accounts

standing alone do not establish knowing or reckless disregard for the truth. *Newman v. Twp. of Hamburg*, 773 F.3d 769, 772 (6th Cir. 2014).

The district court granted summary judgment to White, Kolak, and Neibauer. In reviewing that ruling, we focus on the facts in the record not subject to genuine dispute, which suffice to resolve these claims.

While the November 1 SGA meeting was ongoing, security footage shows Murie pulling on the door handle, knocking on the adjacent window, and pulling on the handle again. Even if White's statement that Murie was "banging on the doors and windows" exaggerates that conduct, that discrepancy alone would not permit a reasonable jury to find knowing or reckless disregard for the truth. *See id.* at 772. Although the footage does not show Murie preventing anyone from entering or leaving the classroom, it shows him standing directly in front of the door for extended periods. Given that conduct, White's statement that Murie "stood in the doorway and would not let students or staff in or out of the meeting" would not permit a reasonable jury to find knowing or reckless disregard for the truth. White's request that Officer Bock prohibit Murie from entering the college's property for six months was a request, not a factual assertion, and therefore cannot be false information.

Murie also relies on Kolak's email, which White forwarded to police, to support his claims against White and Kolak. The email described Murie as "pounding" on the window and "rattling" the door handle, and it stated that his conduct caused the meeting to recess for about ten minutes. R. 10-2, Kolak Email, PageID 155. The footage shows Murie knocking on the window and pulling on the handle, which supports Kolak's description of Murie "rattling" the handle. As with White's description of "banging," the difference between "pounding" and knocking alone would not permit a reasonable jury to find knowing or reckless disregard for the truth. *See Newman*, 773 F.3d at

772. Nothing in the footage contradicts Kolak's account that the meeting recessed for ten minutes, and Kolak, unlike Murie, was in the room. The email also stated that guest speakers were able to enter and exit freely, which undercuts any inference that Kolak intended to mislead the police. As to White, nothing gave him reason to doubt Kolak's account of events inside the room, which White did not witness.

Murie argues that Neibauer, who was not present during the meeting, influenced his prosecution by failing to correct Kolak's email after he reviewed the security footage. But the security footage did not give Neibauer reason to think Kolak's account from inside the room was false. As explained above, the footage showed conduct consistent with Kolak's description of Murie knocking on the window and rattling the handle, and it did not contradict Kolak's account of a recess at the meeting. Accordingly, no reasonable jury could find that Neibauer knowingly or recklessly allowed false information to influence Murie's prosecution. *See Meeks v. City of Detroit*, 727 F. App'x 171, 178–79 (6th Cir. 2018) (explaining that failure to investigate claims when there is no reason to doubt their truth does not give rise to liability for malicious prosecution).

The district court dismissed Murie's malicious prosecution claim against the NMC Board under Rule 12(b)(6). Murie alleges only "upon information and belief" that the NMC Board "approv[ed] and ratif[ied]" the decision to make false statements to TCPD. R. 1, Compl., PageID 23. Such conclusory allegations do not plausibly allege that the Board made, influenced, or participated in the decision to prosecute Murie. *See Ashcroft v. Iqbal*, 556 U.S. 662, 677–79 (2009).

Accordingly, Murie's federal-law malicious prosecution claims fail on the first element. He has not shown that White, Kolak, or Neibauer knowingly or recklessly gave police false

information material to the prosecution, and he has not plausibly alleged that the Board made, influenced, or participated in the decision to prosecute him.

C.

Finally, Murie's state-law malicious prosecution claim rests on the same statements by the same defendants as his federal claim. The district court dismissed it under Rule 12(b)(6). Michigan law requires, among other elements, malice or a purpose other than bringing the plaintiff to justice. *Matthews v. Blue Cross & Blue Shield of Mich.*, 572 N.W.2d 603, 609–10 (Mich. 1998). Murie pleads neither. His complaint recounts a long history of conflict with defendants and alleges that they made false statements to police, but it pleads no facts connecting that conflict to the decision to pursue charges. And his own allegations show that the charge rested on his refusal to leave after police warned him of arrest, not on malice. He therefore has not plausibly alleged malice or an improper purpose.

IV.

For these reasons, the district court's judgment is **AFFIRMED**.