

NONPRECEDENTIAL DISPOSITION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 October 27, 2026*

Decided October 28, 2026

Before

THOMAS L. KIRSCH II, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

REBECCA TAIBLESON, *Circuit Judge*

No. 26-1957

CALVIN MCMILLAN,
Plaintiff-Appellant,

v.

NATIONAL FOOTBALL LEAGUE
and WISCONSIN DEPARTMENT OF
REVENUE,
Defendants-Appellees.

Appeal from the United States District
Court for the Eastern District of Wisconsin.

No. 26-CV-594

Byron B. Conway,
Judge.

ORDER

Calvin McMillan sued the National Football League and the Wisconsin Department of Revenue for copyright infringement, alleging that the defendants copied

* The appellees were not served with process and are not participating in this appeal. We have agreed to decide the case without oral argument because the brief 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).

protected material from songs he composed about the Green Bay Packers. The district court screened the complaint and dismissed it for failure to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B). We affirm.

We assume the truth of McMillan’s allegations, as supplemented by the documents he attached, and draw all reasonable inferences in his favor. *See* FED. R. CIV. P. 10(c); *O’Brien v. Vill. of Lincolnshire*, 955 F.3d 616, 621 (7th Cir. 2020). McMillan wrote two songs about the Packers titled “Pack Attack” (which McMillan also referred to as “The Pack Is Back, It’s a Pack Attack”) and “Go Pack Go” (which he also referred to as “The Funky Packers”). According to McMillan, the NFL—which had licensed the Packers’ logo to the Wisconsin Department of Revenue for use in a lottery—used his lyrics without authorization when lottery tickets adopted phrases that matched the lyrics of his songs, including “Pack Attack” and “Go Pack Go.”

The district court screened McMillan’s complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) and dismissed it for failure to state a claim.[†] The court questioned whether McMillan had registered his works with the Copyright Office—a prerequisite for bringing a federal copyright lawsuit under 17 U.S.C. § 411(a)—but determined, regardless, that McMillan failed to state a plausible copyright claim because slogans or short phrases like “Pack Is Back,” “Go Pack Go,” or “Pack Attack” are not copyrightable.

To make out a copyright infringement claim, a plaintiff must show (1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original. *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991). In other words, the material alleged to have been copied must itself contain original expression that is eligible for copyright protection. *See UIRC-GSA Holdings, LLC v. William Blair & Co.*, 90 F.4th 908, 913 (7th Cir. 2024).

On appeal, McMillan argues that the district court should have consulted the Copyright Office’s records to verify that his works were registered. But it was McMillan’s burden to prove registration of a valid copyright for each of them, and he

[†] McMillan also alleged violations under the Sherman Antitrust Act against both defendants, but the court concluded that these allegations failed to state a plausible claim. McMillan does not pursue those claims on appeal, so we do not discuss them further.

has submitted no such evidence. *See* 17 U.S.C. § 411(a); *Feist Publ'ns*, 499 U.S. at 691; *UIRC-GSA Holdings*, 90 F.4th at 913.

Even if the works themselves were registered, that in and of itself would not render the phrases at issue copyrightable. *See UIRC-GSA Holdings*, 90 F.4th at 913–14. McMillan argues that the district court erred by considering the phrases “Pack Attack,” “Pack Is Back,” and “Go Pack Go” in isolation, rather than as integral parts of his copyrighted musical compositions. But his infringement claim rests on the defendants’ alleged copying of those precise phrases. And the phrases themselves—brief, slogan-like combinations of ordinary words—are excluded from copyright protection. *See* 37 C.F.R. § 202.1(a). Even if evaluated as song lyrics, they would be lacking the originality required for protection. *See UIRC-GSA Holdings*, 90 F.4th at 914; *see also Acuff-Rose Music, Inc. v. Jostens, Inc.*, 155 F.3d 140, 143–44 (2d Cir. 1998) (holding that the lyric “You’ve got to stand for something, or you’ll fall for anything” was not protected by the copyright of the song in which it appeared because it lacked originality).

We have considered McMillan’s other arguments, and none merits discussion.

AFFIRMED