

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-1578

ROBERT WHEELER,

Plaintiff - Appellant,

v.

UFCW LOCAL 27,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (1:13-cv-00761-CCB)

Submitted: July 18, 2013

Decided: July 22, 2013

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Wheeler, Appellant Pro Se. Christopher Roderick Ryon, KAHN, SMITH & COLLINS, PA, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Wheeler appeals the district court's order granting Defendant's Fed. R. Civ. P. 12(b)(6) motion and dismissing his civil action for failure to state a claim upon which relief may be granted. We have reviewed the record and find no reversible error. Wheeler's allegations fail to state a plausible claim for relief for breach by Defendant of its duty of fair representation. See Air Line Pilots Ass'n, Int'l v. O'Neill, 499 U.S. 65, 67 (1991) (explaining that a union breaches its duty of fair representation "if its actions are either arbitrary, discriminatory, or in bad faith" and that union action is arbitrary "only if, in light of the factual and legal landscape at the time of the union's actions, the union's behavior is so far outside a wide range of reasonableness as to be irrational" (internal quotation marks and citation omitted)); Jeffreys v. Commc'ns Workers of Am., 354 F.3d 270, 275-76 (4th Cir. 2003) (explaining that the duty of fair representation "prohibits only invidious discrimination, such as discrimination based on constitutionally protected categories like race or gender, or discrimination that arises from animus or prejudice," and that the bad faith inquiry turns on "the subjective motivation of the union's officials").

Accordingly, although we grant leave to proceed in forma pauperis, we affirm the district court's order.

Wheeler v. UFCW Local 27, No. 1:13-cv-00761-CCB (D. Md. Apr. 17, 2013). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED