

United States Court of Appeals  
For the Seventh Circuit  
Chicago, Illinois 60604

April 4, 2024

*By the Court:*

No. 24-1437

CUTBERTO VIRAMONTES, et al.,  
Plaintiffs - Appellants,

v.

COUNTY OF COOK, et al.,  
Defendants - Appellees.

Appeal from the United  
States District Court for  
the Northern District of Illinois,  
Eastern Division.

No. 1:21-cv-04595

Rebecca R. Pallmeyer,  
*Chief Judge.*

ORDER

A preliminary review of the short record indicates that the order appealed from may not be a final appealable judgment within the meaning of 28 U.S. C. § 1291.

Generally, an appeal may not be taken in a civil case until a final judgment disposing of all claims against all parties is entered on the district court's civil docket pursuant to Fed. R. Civ. P. 58. *See Alonzi v. Budget Construction Co.*, 55 F.3d 331, 333 (7<sup>th</sup> Cir. 1995); *Cleaver v. Elias*, 852 F.2d 266 (7<sup>th</sup> Cir. 1988).

In the present case, as appellees note in their docketing statement, the district court dismissed the claims of plaintiff Rubi Joyal without prejudice. This is problematic. *See Lauderdale-El v. Ind. Parole Bd.*, 35 F.4<sup>th</sup> 572, 576 (7<sup>th</sup> Cir. 2022) (“[T]he phrase ‘without prejudice’ makes jurisdictional antennae twitch for appellate judges ....”). Quite simply, a dismissal without prejudice signals to a party (and the court) that there exists an opportunity to revive the claims that were dismissed. *Id.*

Plaintiff Rubi Joyal’s memorandum in support of his motion to dismiss him as a plaintiff in this case states that he “simply seeks to leave the case and does not intend to bring another.” (Emphasis added.) Yet, plaintiff Joyal requested that his claims against

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all defendants be without prejudice. Why? Such a dismissal leaves plaintiff Joyal with an opportunity to revive his claims, creating a jurisdictional issue that needs to be resolved.

Plaintiff Joyal is advised that a party's representation that he is willing to unequivocally dismiss revivable claims with prejudice will eliminate appellees' asserted jurisdictional defect. *See Palka v. Chicago*, 662 F.3d 428, 433 (7<sup>th</sup> Cir. 2011). Accordingly,

IT IS ORDERED that appellants shall file, on or before April 17, 2024, a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42(b) will satisfy this requirement. Briefing shall be suspended pending further court order.

NOTE: Caption document "JURISDICTIONAL MEMORANDUM." The filing of a Circuit Rule 3(c) Docketing Statement does not satisfy your obligation under this order.