

United States Court of Appeals
For the Eighth Circuit

No. 25-2564

Steven Anthony Sera; Sera Family Trust,

Plaintiffs - Appellants,

v.

Randy Zimmerman, in His Individual and Official Capacity as a Parole Officer for
the Arkansas Division of Community Correction; Krystle Williams, in Her
Individual and Official Capacity as Area Manager for the Arkansas Division of
Community Correction; Sally Sweeden, in Her Individual and Official Capacity as
Assistant Area Manager for the Arkansas Division of Community Correction;
Holly Jackson; Hollys Daycare LLC,

Defendants - Appellees.

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: June 10, 2026

Filed: August 27, 2026

Before COLLOTON, Chief Judge, ERICKSON and GRASZ, Circuit Judges.

COLLTON, Chief Judge.

When the Arkansas Post-Prison Transfer Board granted parole to Steven Anthony Sera, subject to the approval of a valid parole plan, the Sera Family Trust purchased property to serve as Sera's residence. Sera's parole officer then denied his parole plan twice after falsely claiming that Sera's proposed residence was near a daycare center. Sera and the Trust sued Arkansas corrections officials and alleged that the denial of the plan violated Sera's constitutional rights. The district court* granted the officials' motion to dismiss the complaint. The Sera parties appeal, and we affirm.

I.

For the purposes of a motion to dismiss, we take the facts alleged in the complaint as true and apply all reasonable inferences in favor of the Sera parties. *Yang v. Robert Half Int'l, Inc.*, 79 F.4th 949, 964 (8th Cir. 2023). Sera, a Level IV sex offender, was sentenced to 30 years' imprisonment in 1998. In February 2024, he was granted parole subject to parole plan approval. The Sera Family Trust bought and developed a residence for Sera after the sheriff's office stated that it was lawful for Sera to live there.

On August 9, Sera's parole officer, Randy Zimmerman, rejected Sera's parole plan because "Hollys Daycare" was located within 800 feet of the residence. Holly Jackson lived at the location identified, but she did not operate a daycare center. On August 19, Sera notified two area parole managers that Zimmerman's denial of the parole plan was based on a lie. On August 20, Jackson registered "Hollys Daycare LLC" with the Secretary of State's Office.

*The Honorable Lee P. Rudofsky, United States District Judge for the Eastern District of Arkansas.

Sera submitted a second parole plan after verifying that there was no daycare center at Jackson's residence. Zimmerman rejected that plan on August 26. He falsely stated that "Hollys Daycare LLC" was a "licensed business" and that its license was "current." Sera later learned that he was prohibited from filing a third parole plan that proposed the same residence.

Sera and the Sera Family Trust sued Zimmerman, the area parole managers, Jackson, and Hollys Daycare. Relevant to this appeal, they alleged that the corrections officials violated Sera's right to due process. The corrections officials moved to dismiss all claims, and Sera was paroled to the residence. The district court then granted the motion to dismiss. *See* Fed. R. Civ. P. 12(b)(6). The court determined that the claims failed because Sera had no constitutionally-protected interest in early release from prison. We review the district court's decision *de novo*.

II.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation omitted). The Sera parties allege that Sera was denied liberty without due process of law. Accordingly, a "threshold question is whether he possesses a liberty interest in parole." *Pittman v. Gaines*, 905 F.2d 199, 200 (8th Cir. 1990). We conclude that he does not.

It is well established that there is no constitutional right to release from prison before the expiration of a valid sentence. *Greenholtz v. Inmates of Neb. Penal & Corr. Complex*, 442 U.S. 1, 7 (1979). State law creates a liberty interest where it establishes a presumption that parole will be granted upon designated findings. *Board of Pardons v. Allen*, 482 U.S. 369, 376-78 (1987) (analyzing mandatory language in Montana and Nebraska parole statutes). A state statute creating "the possibility of parole," however, "provides no more than a mere hope that the benefit

will be obtained.” *Greenholtz*, 442 U.S. at 11. The Arkansas parole statute provides that the Post-Prison Transfer Board “may release” an eligible inmate on parole. Ark. Code Ann. § 16-93-701(a)(1). The statute thus does not create a liberty interest in parole. *Parker v. Corrothers*, 750 F.2d 653, 657 (8th Cir. 1984) (analyzing Ark. Stat. Ann. § 43-2808 (1977) (current version at Ark. Code Ann. § 16-93-701)).

The Sera parties do not identify an alternative statute or regulation establishing a liberty interest in parole. *Cf. id.* at 658. Instead, they argue that there “should be a liberty due process interest” when the denial of a parole plan is based on malice or an outright lie. A nefarious motive or deplorable conduct, however, does not by itself deprive Sera of liberty or property under the Constitution. “[S]ection 1983 does not turn the Fourteenth Amendment into a font of tort law that supersedes the tort systems already available under individual state laws.” *Gregory v. City of Rogers*, 974 F.2d 1006, 1009 (8th Cir. 1992) (en banc). We thus agree with the district court that “whether a person has a protected liberty interest is an entirely different question from how awful a state official’s behavior is.”

The Sera parties also argue that the officials violated Sera’s right to due process because their conduct shocks the conscience. This argument appears to conflate procedural due process and the concept of substantive due process. *See Van Orden v. Stringer*, 937 F.3d 1162, 1168 (8th Cir. 2019). Conscience-shocking conduct alone does not establish a substantive due process violation; the claimant also must allege the violation of a fundamental right or a fundamental liberty interest. *Id.* at 1167; *see Washington v. Glucksberg*, 521 U.S. 702, 721 (1997). When recast as an allegation involving substantive due process, the claim here still fails because Sera does not have a liberty interest in parole.

The Sera parties argue finally that *McDonough v. Smith*, 588 U.S. 109, 116 (2019), supports their due process claim, because the Supreme Court analogized fabrication of evidence to the common-law tort of malicious prosecution. According

to the Sera parties, this court should analogize the conduct alleged here to malicious prosecution because Sera was “essentially” prosecuted with false evidence. Unlike Sera, however, McDonough pleaded “deprivations of his liberty” stemming from “criminal proceedings against him.” *Id.* at 117. The Supreme Court did not declare that fabrication of evidence by itself established a due process violation. The Court, rather, accepted the court of appeals’ “treatment of McDonough’s claim as one sounding in denial of due process,” and merely “assume[d] without deciding that the Second Circuit’s articulations of the right at issue and its contours are sound.” *Id.* at 115 & n.2. In this case, Sera had no constitutionally-protected liberty interest in early release on parole, so the alleged misconduct by corrections officials does not violate the Due Process Clause.

The judgment of the district court is affirmed.
