[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 17-15093
Non-Argument Calendar

D.C. Docket No. 1:17-cv-23611-DPG

LUKELY RILEY,

Plaintiff-Appellant,

versus

GOVERNOR OF FLORIDA,
SECRETARY, DEPARTMENT OF CORRECTIONS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(July 12, 2018)

Before WILSON, JORDAN, and ROSENBAUM, Circuit Judges.

PER CURIAM:

Lukely Riley, a Florida state prisoner proceeding *pro se*, appeals the *sua sponte* dismissal of his 42 U.S.C. § 1983 civil-rights complaint against Governor

Rick Scott and Florida Department of Corrections ("FDOC") Secretary Julie Jones, alleging that the defendants violated his constitutional rights under the First Amendment. After careful review, we vacate and remand with instructions to grant Riley leave to amend his complaint.

Riley is an adherent of the Ethiopian Zion Coptic faith. He is also a prisoner in the custody of the FDOC. To address the religious and spiritual needs of prisoners and staff, the FDOC provides chaplaincy services and allows prisoners to designate their religious preference. But the FDOC chaplaincy service does not include Ethiopian Zion Coptic in its computerized list of "faith codes" from which prisoners may choose.

Riley discovered this omission in 2016, after he learned from a chaplain at Union Correctional Institution ("UCI"), where he was housed at the time, that his religious preference had been registered incorrectly as Jewish since 1979.[1] Riley requested the correction of his registered faith to Ethiopian Zion Coptic. The chaplaincy service responded that Ethiopian Zion Coptic was not a listed faith because he was the first inmate to request it and that it could not be added to the computerized list of faiths due to technical issues. He was told to ask his chaplain to include his religious preference in a notation in his religious contact log, which would become part of his permanent record.

[1] Riley claims that the FDOC knew his faith was Ethiopian Zion Coptic as early as 1984, when he joined a lawsuit invoking that faith in a challenge to the FDOC's grooming policy.

In his complaint and supporting documents, Riley claimed that the FDOC, by listing his religion as Jewish, pressured him to abandon his religious beliefs, and that the exclusion of Ethiopian Zion Coptic from the FDOC's list of faiths imposed a substantial burden on his faith. He alleged that the defendants violated the free-exercise and establishment clauses of the First Amendment. And he asked for an order requiring the FDOC to include Ethiopian Zion Coptic in its list of faith codes and awarding monetary damages.

The district court dismissed the complaint either as moot or for lack of jurisdiction. Riley's claim relating to the listing of his religion as Jewish was moot, the court concluded, because it occurred at UCI, and he had since moved to a different facility. And he failed to establish a basis for jurisdiction over his claim relating to the FDOC's exclusion of Ethiopian Zion Coptic from the list of faith codes, the court reasoned, because nothing in his complaint supported a finding that the defendants were prohibiting him from practicing his faith.

Riley now appeals. We granted his motion for leave to appeal *in forma pauperis*, finding that his appeal was not frivolous, and we now vacate and remand for further proceedings.

We review *de novo* a district court's determination that it lacks subject-matter jurisdiction. *Gupta v. McGahey*, 709 F.3d 1062, 1064–65 (11th Cir. 2013).

The question of mootness is also reviewed *de novo*. *CAMP Legal Defense Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1268 (11th Cir. 2006).

Pro se pleadings are held to a less stringent standard than those drafted by attorneys and will, therefore, be liberally construed. *Evans v. Ga. Reg'l Hosp.*, 850 F.3d 1248, 1253 (11th Cir.), *cert. denied*, 138 S. Ct. 557 (2017). In addition, when a more carefully drafted complaint might state a claim, a *pro se* litigant "must be given at least one chance to amend the complaint before the district court dismisses the action with prejudice." *Id.* at 1254 (quotation marks omitted). Therefore, where a more carefully drafted complaint might state a claim, a district court abuses its discretion if it does not provide a *pro se* plaintiff at least one opportunity to amend before the court dismisses with prejudice. *Woldeab v. Dekalb Cty. Bd. of Educ.*, 885 F.3d 1289, 1291–92 (11th Cir. 2018).

Here, the district court erred in dismissing Riley's complaint. First, Riley's claims are not moot. The court appears to have determined it could not grant Riley effective relief in part because he had been transferred from UCI, the institution where he learned that his religion was listed incorrectly as Jewish. *See Fla. Ass'n of Rehab. Facilities, Inc. v. State of Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000) ("When events subsequent to the commencement of a lawsuit create a situation in which the court can no longer give the plaintiff meaningful relief, the case is moot and must be dismissed."). But the complaint's

allegations, liberally construed, were not limited to UCI. Rather, it appears from the complaint that Riley's religious-preference designation followed him from institution to institution as part of his permanent prison record. Accordingly, the court could still grant effective relief, notwithstanding Riley's transfer from UCI to another institution.

Second, Riley's complaint adequately established the district court's subject-matter jurisdiction under 28 U.S.C. § 1331. The threshold question in determining whether a claim presents federal-question jurisdiction under 28 U.S.C. § 1331 is whether the matter in controversy arose under the Constitution, laws, or treaties of the United States. *Bell v. Hood*, 327 U.S. 678, 681–82 (1946); *see Fountain v. Metro. Atlanta Rapid Trans. Auth.*, 678 F.2d 1038, 1042 (11th Cir. 1982). Riley meets that standard because he seeks recovery under the First Amendment for the FDOC's failure to recognize the Ethiopian Zion Coptic faith on equal footing with other religious faiths. The complaint can also be liberally construed to raise a claim under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc-1(a). While Riley's claims ultimately may or may not fail on the merits, they are not so "wholly insubstantial and frivolous" as to negate the existence of jurisdiction. *See Bell*, 327 U.S. at 682–83. Thus, the court erred in concluding that it lacked jurisdiction over Riley's complaint.

On the merits of Riley's claims, we agree with the district court's statement that Riley's complaint failed to indicate with any specificity how the defendants' actions impaired the free exercise of his Ethiopian Zion Coptic faith. Nevertheless, the court did not give Riley an opportunity to amend his complaint before dismissing it. Nor did the court find that amendment would be futile. And we cannot say that Riley, if given the opportunity to amend his complaint, could not include additional allegations demonstrating how the FDOC's actions substantially impaired the free exercise of his religion. *See Woldeab*, 885 F.3d at 1291–92; *Evans*, 850 F.3d at 1254. Such additional allegations may include how the FDOC chaplaincy service or others utilize a prisoner's religious designation. Accordingly, Riley is entitled to at least one opportunity to amend his complaint before dismissal. We therefore vacate the judgment and remand with instructions for the district court to grant him that opportunity.

VACATED AND REMANDED.[2]

[2] Because we vacate and remand with instructions to allow Riley to amend his complaint, we **DENY** as moot Riley's motions for leave to amend his complaint, to refile that motion, for a definite statement, and to compel the appellee to respond. Riley's motion for sanctions is **DENIED**.