[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 22-13676

Non-Argument Calendar

GLEN EARL CLAIBORNE, SR.,

Plaintiff-Appellant,

versus

JP MORGAN CHASE BANK NATIONAL ASSOCIATION, et al.,

Defendants,

JP MORGAN CHASE BANK, NA,

Defendant-Appellee.

Appeals from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:18-cv-05542-SDG

No. 23-10439

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Plaintiff-Appellant,

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Before WILSON, JORDAN, and LAGOA, Circuit Judges.

PER CURIAM:

Glen Earl Claiborne, Sr., proceeding pro se, appeals the district court's orders dismissing his claims against JP Morgan Chase Bank, NA (Chase), granting summary judgment for Chase, setting aside Chase's default, and denying reconsideration. He argues, in his initial brief, that the district court procedurally erred by failing to continue proceedings while he obtained counsel and dealt with poor health, and, in his reply brief, that the district court substantively erred in dismissing certain claims, granting summary judgment on others, and setting aside Chase's default. After careful review, we affirm.

I.

First, we turn to the continuance claim. Denial of a continuance is reviewed for abuse of discretion and will not be disturbed unless "arbitrary or unreasonable." *Hashwani v. Barbar*, 822 F.2d 1038, 1040 (11th Cir. 1987) (per curiam). We find four factors particularly relevant for whether denying a continuance constitutes an abuse of discretion: (1) the diligence of the party requesting a continuance; (2) the likelihood granting the continuance would satisfy the need identified in the request; (3) inconvenience to the court,

opposing party, and witnesses; and (4) harm to the party requesting the continuance if it is not granted. *Id.*

Lack of counsel "does not afford a party an absolute right to a continuance." *Arabian Am. Oil Co. v. Scarfone*, 939 F.2d 1472, 1479 (11th Cir. 1991) (per curiam) (holding in the context of attorney's withdrawal). In such cases, "[t]he exercise of discretion by the trial court will be disturbed only in extreme cases in which it clearly appears that the moving party was free of negligence." *Id.* (quotations omitted).

Here, assuming Claiborne's requests for appointment of counsel and various stays presented the continuance issue, the district court did not abuse its discretion. Even without a stay, Claiborne had nearly five years in which to retain an attorney, from the very outset of which he recognized an attorney could be necessary. A continuance at this point in the litigation will not likely satisfy any alleged need. Furthermore, both the district court and Chase would have been inconvenienced by a stay, requiring Chase to remain indefinitely ready to defend a case that contains countless meritless motions. Although we recognize Claiborne's health issues, those periods of poor health over a five-year span cannot overcome the extensive litigation history between the parties. Based upon this record, we refuse to find that the district court's denial of a continuance was either arbitrary or unreasonable.

II.

Second, we address the substantive challenges. We have held that "failure to raise an issue in an initial brief on direct appeal

should be treated as a forfeiture of the issue." *United States v. Campbell*, 26 F.4th 860, 873 (11th Cir. 2022) (en banc); *see also Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1330 (11th Cir. 2004) ("[T]he law is by now well settled in this Circuit that a legal claim or argument that has not been briefed before the court is deemed abandoned and its merits will not be addressed."). This includes "arguments raised for the first time in a pro se litigant's reply brief." *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (per curiam). We will generally not review forfeited issues unless the issue is extraordinary enough to excuse forfeiture and one of a limited set of exceptions is met. *See Campbell*, 26 F.4th at 873.

Pleadings by pro se litigants are to be liberally construed. *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (per curiam). However, pro se status does not give a "court license to serve as de facto counsel for a party or to rewrite an otherwise deficient pleading in order to sustain an action." *GJR Invs., Inc. v. Cnty. of Escambia*, 132 F.3d 1359, 1369 (11th Cir. 1998), *overruled on other grounds by Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (internal citations omitted). In addition, pro se litigants are nevertheless required to follow procedural rules. *See Albra*, 490 F.3d at 829.

Here, Claiborne has forfeited any challenge to the district court's decisions to set aside Chase's default, dismiss Claiborne's intentional infliction of emotional distress and negligence claims, and grant summary judgment against Claiborne's attempted wrongful foreclosure claim. Even liberally construing his initial brief, he failed to raise these issues therein, especially not with

more than "passing" or "perfunctory" remarks. We are not at liberty to act as Claiborne's counsel and rewrite his initial brief so that it raises the merits of the district court's decisions, nor excuse his failure to follow standard procedural rules. While Claiborne raised the merits in his reply brief and in his motion for sanctions, this is insufficient to save them from forfeiture.[1]

AFFIRMED.

[1] Because we deny the related procedural and substantive claims above, Claiborne's Motion for Judicial Notice Pursuant to O.C.G.A. § 24-2-201 and O.C.G.A. § 50-13-8 in Support of Appeals is similarly DENIED. Additionally, his Motion for Sanctions for Comparable Misconduct and Contempt is DENIED.