[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-13675
Non-Argument Calendar

D.C. Docket No. 2:18-cv-14005-JEM

DARIO RODRIGUEZ,

Plaintiff-Appellant,

versus

RICK SCOTT,
PETER KEISHER,
GLENN FINE,
ALICE FISHER,
WARDEN BRYNER, and
WAN KIM

Defendants-Appellees.

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

(May 31, 2019)

Before TJOFLAT, JORDAN, and GRANT, Circuit Judges.

PER CURIAM:

A pro se prisoner, Dario Rodriguez, appeals the sua sponte dismissal of his complaint as an impermissible shotgun pleading. Before the district court dismissed the complaint—which alleges various constitutional violations under 42 U.S.C. § 1983—it gave Rodriguez the opportunity to amend the complaint, warned him that his initial complaint was an impermissible shotgun pleading, and even provided a detailed roadmap explaining how to fix the flaws in the initial complaint. Yet Rodriguez filed an amended complaint that fared no better than his initial one. The court therefore dismissed the amended complaint with prejudice for failure to state a claim. After careful review of the record, we affirm.

I.

Rodriguez filed a pro se complaint against the Florida Governor, the warden of a Florida correctional institution, and three federal employees in Washington, D.C. His complaint contains three counts. *First*, he alleges that prison guards followed him from unit to unit within a prison, secretly shared information about him with other guards, and stole or gave away his mail. In his view, these actions violated the First, Eighth, and Fourteenth Amendments. *Second*, a prison guard not named as a defendant allegedly intentionally tripped him in front of other prisoners, beat him, and threated to kill him; guards also allegedly placed him in a prison cell with cellmates who beat him and threatened to kill him. In his telling, these actions constitute reckless endangerment of an inmate and violate the Fifth,

Sixth, and Eighth Amendments. *Third*, he contends that prison guards obstructed justice when they "rubbed" him, spoke to him in a negative way, and "passed by" him "in disrespect"—allegedly in violation of the Eighth and Fourteenth Amendments.

The magistrate conducted a frivolity review of these allegations, as required by 28 U.S.C. § 1915A(a), and issued an order describing the complaint as an impermissible shotgun pleading riddled with "rambling and disjointed" allegations. The magistrate explained that the named defendants did not appear to have any involvement in the alleged wrongdoing. And those who Rodriguez *did* accuse of mistreating him were not named as defendants. The magistrate gave Rodriguez an opportunity to fix these problems by amending his complaint and, to assist Rodriguez with amending the complaint, the magistrate provided an eight-page outline of the pleading rules and the applicable legal standards.

Rodriguez then filed an amended complaint that suffered from many of the same flaws as the initial complaint. In addition to adding another defendant, the amended complaint "makes reference to alleged assaults by staff, threats of retaliation, a compact with the Governor of Nevada, multiple officials falsifying documents, secret information, events that occurred at Tomoka CI and 'CFRC,' being assaulted by other prisoners, gang issues, dangerous conditions, falsification of disciplinary reports, inmates 'snitching,' denials of medical treatment, and self

defense." Even though the magistrate had previously created a roadmap for Rodriguez to follow in amending his complaint, Rodriguez failed to set forth a chronology of events, the allegations in the amended complaint were still vague and disjointed, and the factual allegations did not even mention the named defendants. The magistrate therefore issued a report and recommendation (R&R) concluding that the amended complaint should be dismissed with prejudice for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). Having not received any objections to the R&R, the district court adopted the R&R and entered final judgment against Rodriguez.

Rodriguez eventually appealed that order. We received Rodriguez's appeal, but remanded to the district court because, after the district court entered final judgment, Rodriguez filed objections to the magistrate's R&R, which the district court never addressed due to the unusual timing of the filing of those objections. On remand, the district court considered Rodriguez's objections, but again decided to dismiss his complaint. Rodriguez again appeals, seeking reversal of the district court's order dismissing his complaint.

II.

A.

Before we consider the merits, we must resolve Rodriguez's pending motions for appointment of counsel and leave to file a supplemental brief.

As to the request for court-appointed counsel, a "plaintiff in a civil case has no constitutional right to counsel." *Bass v. Perrin*, 170 F.3d 1312, 1320 (11th Cir. 1999). And courts should "appoint counsel only in exceptional circumstances"—for example, when the action involves complex facts or novel legal issues. *Id.* The claims here do not contain any novel issues of constitutional interpretation or statutory construction. Nor do the factual allegations appear particularly complex. Because this action does not involve any exceptional circumstances that would warrant the appointment of counsel, we deny that motion.

As to the motion for permission to file a supplemental appellate brief, we typically allow a litigant to file a supplemental brief when it addresses "intervening decisions or new developments" regarding the issues raised in the initial brief. *United States v. Nealy*, 232 F.3d 825, 830 (11th Cir. 2000); *see also* 11th Cir. R. 28 I.O.P. 5. Rodriguez's proposed supplemental brief does not reference any intervening judicial opinion or new factual development—instead, it primarily rehashes the arguments made in his initial brief and in his motion for appointment of counsel. We therefore deny that motion, too.

B.

Turning to the merits, we review de novo the district court's dismissal of Rodriguez's complaint under § 1915(e)(2)(B)(ii) for failure to state a claim, using "the same standard as a dismissal under Rule 12(b)(6) of the Federal Rules of Civil

Procedure." *Evans v. Ga. Reg'l Hosp.*, 850 F.3d 1248, 1253 (11th Cir. 2017); *see also* 28 U.S.C. § 1915A(a) (requiring courts to sua sponte review civil complaints that seek redress from a government entity or officer); *id.* § 1915(e)(2)(B)(ii) (requiring courts to dismiss certain actions that fail to state a claim). "*Pro se* pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed." *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (per curiam). But pro se litigants still must comply with the Federal Rules of Civil Procedure; so, for Rodriguez to prevail on appeal, he must prove that his complaint made "a short and plain statement of the claim showing that" he "is entitled to relief." Fed. R. Civ. P. 8(a)(2); *see also Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (explaining that IFP litigants are subject to the Federal Rules of Civil Procedure). In other words, the "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) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* So "conclusory allegations, unwarranted deductions of facts or legal conclusions masquerading as facts will not prevent dismissal." *Oxford Asset Mgmt., Ltd. v. Jaharis*, 297 F.3d 1182, 1188 (11th Cir. 2002).

Complaints that fail to meet the Rule 8 short-and-plain-statement standard "are often disparagingly referred to as 'shotgun pleadings.'" *Weiland v. Palm Beach Cty. Sheriff's Office*, 792 F.3d 1313, 1320 (11th Cir. 2015). We have previously explained that shotgun pleadings can take several forms, two of which are relevant here. The first is a complaint that "is guilty of the venial sin of being replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action." *Id.* at 1322. The second is a pleading that asserts "multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against." *Id.* at 1323. "The unifying characteristic of all types of shotgun pleadings is that they fail to one degree or another, and in one way or another, to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Id.*

Rodriguez's complaint falls squarely within these descriptions of shotgun pleadings. To begin with, we note that the magistrate judge gave Rodriguez the opportunity to fix his complaint, and even provided an eight-page roadmap detailing how to appropriately amend the complaint. Despite receiving a second shot at filing a complaint, Rodriguez's amended complaint still suffered from the same flaws that the magistrate identified in the first pleading and warned Rodriguez to correct. Nowhere in the amended complaint's "rambling statement

of facts" does Rodriguez "appear to even mention any of the named defendants." And the amended complaint—like the initial complaint—put the blame for the alleged wrongdoing on individuals not named as defendants. "All that" Rodriguez's amended complaint did, as the magistrate explained, was "set forth a series of cryptic and disjointed vague facts and conclusory claims, none of which seem to have anything to do with any of the named defendants." What's more, Rodriguez ignored the magistrate's specific instruction to explain why venue was proper in Florida—given that some of the alleged facts occurred in Nevada and some of the named defendants resided in D.C.

Although the district court and magistrate judge were required to liberally construe Rodriguez's pro se complaint, they were not required to "rewrite an otherwise deficient pleading in order to sustain an action." *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1169 (11th Cir. 2014) (internal quotation marks omitted) (citation omitted). We therefore affirm the district court.

III.

In short, we **AFFIRM** the district court's order dismissing Rodriguez's complaint for failure to state a claim.