[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-11191
Non-Argument Calendar

D.C. Docket No. 1:18-cv-01676-WMR

GAIL ROGERS,

Plaintiff-Appellant,

versus

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, AFGE DISTRICT 5,

Defendant-Appellee.

Appeals from the United States District Court
for the Northern District of Georgia

(September 6, 2019)

Before TJOFLAT, JORDAN and HULL, Circuit Judges.

PE CURIAM:

In this civil lawsuit, Gail Rogers appeals the district court's order dismissing her second amended complaint due to a lack of standing, mootness, untimeliness, and failure to state a claim. In response, the American Federation of Government

Employees, AFL-CIO, AFGE District 5 ("AFGE") has moved for summary affirmance and a stay of the briefing schedule.

Summary disposition is appropriate either where time is of the essence, such as "situations where important public policy issues are involved or those where rights delayed are rights denied," or where "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous." *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

"We review de novo a district court's grant of a motion to dismiss for failure to state a claim, accepting the allegations in the complaint as true and construing them in the light most favorable to the nonmoving party." *Kizzire v. Baptist Health Sys., Inc.*, 441 F.3d 1306, 1308 (11th Cir. 2006). Similarly, we review *de novo* whether a case is moot or time-barred. *Troiano v. Supervisor of Elections*, 382 F.3d 1276, 1282 (11th Cir. 2004) (mootness); *Miss. Valley Title Ins. Co. v. Thompson*, 802 F.3d 1248, 1252 (11th Cir. 2015) (timeliness).

Federal Rule of Appellate Procedure 28(a)(8) requires an appellant to include in her brief an argument, which must contain her contentions and the reasons for them, with citations to the authorities and parts of the record on which she relies. Fed. R. App. P. 28(a)(8)(A). "A party fails to adequately brief a claim when [s]he does not plainly and prominently raise it, for instance by devoting a discrete section

of [her] argument to those claims." *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) (quotation marks omitted). "[A]n appellant abandons a claim when [s]he either makes only passing references to it or raises it in a perfunctory manner without supporting arguments and authority." *Id.* "When an appellant fails to challenge properly on appeal one of the grounds on which the district court based its judgment, [she] is deemed to have abandoned any challenge of that ground." *Id.* at 680. We generally do not consider arguments raised for the first time on appeal. *Ledford v. Peeples*, 657 F.3d 1222, 1258 (11th Cir. 2011).

Here, summary affirmance is appropriate. First, Rogers has abandoned any challenge to the district court's dismissal of her claim under the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, because her counseled brief has raised no argument about, or even mentioned, the district court's ruling on that issue. *See Sapuppo*, 739 F.3d at 681. Second, Rogers has abandoned any challenge to the district court's alternative ruling that her claims under the Labor Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. § 411(a)(2) and (5), are moot by failing to raise it on appeal in her counseled brief. *See Sapuppo*, 739 F.3d at 680. Finally, before the district court, Rogers never raised the primary argument she now makes on appeal regarding the impact of footnote 17 in *Dolan v. Transp. Workers Union*, 746 F.2d 733 (11th Cir. 1984), on her LMRDA claims, and thus her argument is waived. *See Ledford*, 657 F.3d at 1258. Therefore, Rogers has either abandoned

or waived any argument to show that the district court erred in dismissing her second amended complaint. Due to Rogers's failure to adequately challenge the district court's rulings, there is no substantial question as to the outcome of the appeal, and summary affirmance is appropriate. *See Groendyke Transp., Inc.*, 406 F.2d at 1162.

Accordingly, AFGE's motion for summary affirmance is GRANTED, the dismissal of Rogers's second amended complaint is AFFIRMED, and AFGE's motion to stay the briefing schedule is DENIED as moot.