[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-13229
Non-Argument Calendar

D.C. Docket No. 1:15-cv-20877-RNS

MARIA FERRER,

Plaintiff-Appellant,

versus

BAYVIEW LOAN SERVICING, LLC,
M&T,

Defendants-Appellees,

PHELAN HALLIHAN DIAMOND & JONES, PLC, et al.,

Defendants.

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

(August 17, 2020)

Before WILSON, ANDERSON, and ED CARNES, Circuit Judges.

PER CURIAM:

Maria Ferrer has been locked in lengthy litigation with a list of lenders for longer than half a decade. After the lenders filed in state court to foreclose on her house, she sued them in federal court for a variety of federal law violations. The district court granted summary judgment to the lenders. Almost exactly a year after judgment was entered, she filed a motion for relief from the judgment under Federal Rule of Civil Procedure 60(b). The district court denied her motion as time-barred. This is her appeal from that denial.

I.

Most of the saga between Ferrer and her various lenders is not relevant to this appeal. Here's what is: In 2006 Ferrer took out a mortgage on a property in Florida. At different points Bayview Loan Servicing, LLC and M&T Bank serviced the loan. In 2010 Ferrer defaulted. In 2014 Bayview began foreclosure proceedings in state court. And in 2015 Ferrer, acting pro se, sued Bayview and M&T (among others) in federal court for violating federal law. That federal lawsuit gave rise to this appeal.

Ferrer's complaint alleged, in relevant part, that Bayview and M&T violated the Telephone Consumer Protection Act (TCPA) by using an automatic telephone dialing system to call her cellphone to collect a debt. Because Ferrer's lawsuit

would be affected by the state foreclosure action, the district court stayed the federal proceedings. After Ferrer lost the state foreclosure action and exhausted all of her appeals, the district court reopened her federal lawsuit in 2017. A few months later, Bayview and M&T moved for summary judgment. They argued that the TCPA claim failed because the evidence showed that all of the calls to Ferrer's cellphone were made by a non-automated system that required human dialing. And, they argued, Ferrer had consented to receiving the calls anyway.

Ferrer's opposition to the motion for summary judgment relied, in part, on deposition excerpts that referred to certain call logs and a dialed number report. Though Ferrer attached several exhibits to her opposition motion, including some call logs, she did not attach all of the call logs referred to in the deposition excerpts. Nor did she attach the dialed number report. Those call logs and that dialed number report were also not otherwise in the record.

The district court granted summary judgment to Bayview and M&T. The court's order pointed out that some of Ferrer's deposition excerpts focused on call logs that she had not filed for the court's consideration. The district court issued its order on January 25, 2018 and entered its judgment the next day. Ferrer did not appeal.

Instead, exactly one year after the summary judgment order — and 364 days after the judgment was entered — Ferrer filed a motion for relief from the

judgment. See Fed. R. Civ. P. 60(b). She argued that she had "inadvertently failed" to file in the record the dialed number report and the call logs. She stated that her failure to file those documents at the summary judgment stage was excusable neglect. And she said that her delay in filing the motion for relief itself was reasonable because she had been evicted, lost most of her possessions, had a nervous breakdown, and suffered physical injuries in two car accidents. Along with her motion for relief, Ferrer filed a full 202-page deposition transcript, including exhibits, and 256 pages of call logs and a dialed number report. In her motion she did not provide any record citations for any of those documents and made only the broad statement that comparing the call logs and dialed number report to the deposition transcript showed a TCPA violation.

The district court denied Ferrer's motion for relief from the judgment because it was not filed within a reasonable time. The court stated that although it was "sympathetic to Ferrer's plight, the summary judgment order placed her on notice that this new evidence was not in the record." Even with that notice, Ferrer did not promptly file the documents, but "waited until the last possible day . . . to indiscriminately dump almost 500-pages of evidence on the docket, without any record or case citation." As a result, the court found that "Ferrer did not act with due diligence and that the one-year delay in providing this evidence was unjustified." Regardless of whether her failure to file the documents at the

summary judgment stage was excusable neglect, the court ruled, her motion for relief from that judgment was time-barred.

II.

Ferrer appeals the denial of her motion for relief. She argues that the motion was filed within a reasonable amount of time because her delay was caused by financial and living hardships, the death of her pet, and physical injuries from two car accidents. Those hardships, she says, justified the one-year delay.

Review of the denial of a Rule 60(b) motion is confined to the denial itself and does not include the issues in the underlying judgment. Maradiaga v. United States, 679 F.3d 1286, 1291 (11th Cir. 2012); see also Am. Bankers Ins. Co. of Fla. v. Northwestern Nat. Ins. Co., 198 F.3d 1332, 1338 (11th Cir. 1999) ("[T]he law is clear that Rule 60(b) may not be used to challenge mistakes of law which could have been raised on direct appeal."). And the review is only for abuse of discretion. Willard v. Fairfield Southern Co., Inc., 472 F.3d 817, 821 (11th Cir. 2006). "A district court abuses its discretion if it applies an incorrect legal standard, follows improper procedures in making the determination, or makes findings of fact that are clearly erroneous." Cordoba v. DIRECTV, LLC, 942 F.3d 1259, 1267 (11th Cir. 2019) (quotation marks omitted). A district court also abuses its discretion when it commits a clear error of judgment. United States v. Brown, 415 F.3d 1257, 1266 (11th Cir. 2005). When review is for abuse of

discretion, it means "the district court had a 'range of choice' that we cannot reverse just because we might have come to a different conclusion had it been our call to make." Sloss Indus. Corp. v. Eurisol, 488 F.3d 922, 934 (11th Cir. 2007). We cannot reverse the district court's denial of a Rule 60(b) motion simply because "a grant of the motion[] might have been permissible or warranted; rather, the decision to deny the motion[] must have been sufficiently unwarranted as to amount to an abuse of discretion." Griffin v. Swim-Tech Corp., 722 F.2d 677, 680 (11th Cir. 1984).

The district court denied Ferrer's motion as time-barred. A motion brought under Rule 60(b) is time-barred if it is not filed within a "reasonable time." Fed. R. Civ. P. 60(c)(1). When a Rule 60(b) motion is based on mistake, inadvertence, or excusable neglect, as Ferrer's was, it must be filed not only within a reasonable time but also within a year of the entry of judgment. Fed. R. Civ. P. 60(b)(1), (c)(1). The bar on filing the motion after a year does not necessarily clear the way for filing it at any time within, or up to, a year. See Stansell v. Revolutionary Armed Forces of Colombia, 771 F.3d 713, 738 (11th Cir. 2014) (holding that a five month delay was untimely). Instead, what counts as a reasonable amount of time depends on the circumstances in an individual case, and courts should consider "whether the parties have been prejudiced by the delay and whether a good reason has been presented for failing to take action sooner." BUC Int'l Corp. v. Int'l

Yacht Council Ltd., 517 F.3d 1271, 1275 (11th Cir. 2008) (quotation marks omitted).

Ferrer points out that we construe pro se pleadings liberally. See Timson v. Sampson, 518 F.3d 870, 874 (11th Cir. 2008). But we don't exempt pro se litigants from procedural rules. See Albra v. Advan, Inc., 490 F.3d 826, 829 (11th Cir. 2007) ("[A]lthough we are to give liberal construction to the pleadings of pro se litigants, we nevertheless have required them to conform to procedural rules.") (quotation marks omitted). Ferrer runs into one of those rules now — the rule that required her motion to be filed within a reasonable time. Her problem is not that the district court read her motion too narrowly, it's that she waited practically as long as she could have to file it, which was a full year. That is too long absent a good reason for the delay.

Though she gives reasons for her delay, we cannot say that the district court abused its discretion in ruling that those reasons were not good enough. We, like the district court, are sympathetic to Ferrer's financial and emotional hardships. But the only reason Ferrer gave for wanting to reopen the judgment was that she had not filed two sets of documents with the district court, documents that she had and that she knew the district court did not have. That reason for reopening the judgment presents problems for Ferrer. She had the documents the entire time. So her delay was not because of an inability to produce them or a lack of access to

them, and she could have filed them at any time after judgment was entered instead of waiting 364 days. And she had notice that those documents were not in the record because the district court in its summary judgment order had flagged their absence. So Ferrer's delay was not because of an obscure legal issue that she couldn't figure out without the help of an attorney or obscure facts she had to seek out. When Ferrer finally filed the documents she failed to include an argument about why they mattered, which shows she was not spending a lot of time crafting her argument about them. The only thing Ferrer did was file the documents wholesale and, in effect, tell the court to figure out their importance. That shouldn't have taken a year.

Considering all of the circumstances and how deferential our review is, we cannot say the district court abused its discretion by denying Ferrer's motion for relief as time-barred.

AFFIRMED.