[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 21-11722
Non-Argument Calendar

D.C. Docket No. 5:20-cv-00324-MHH

TEDD WILSON,

Plaintiff-Appellant,

versus

STATE FARM GENERAL INSURANCE COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(October 25, 2021)

Before WILSON, ROSENBAUM and LAGOA, Circuit Judges.

PER CURIAM:

Tedd Wilson, proceeding *pro se*, appeals following the district court's orders (1) granting State Farm General Insurance Company's ("State Farm") motion for

summary judgment, and (2) denying his post-judgment motion to reconsider. State Farm responds by moving to dismiss the portion of the appeal relating to the summary judgment ruling for lack of jurisdiction, and for summary affirmance of the district court's order denying Wilson's motion for reconsideration, arguing that his motion was untimely and attempted to relitigate arguments that the district court previously rejected. It also moves for a stay of the briefing schedule pending a ruling on the preceding motion.

For ease of reference, we will address State Farm's motion to dismiss first, followed by its motion for summary affirmance.

I

The appellee's motion is GRANTED to the extent it seeks partial dismissal of this appeal for lack of jurisdiction. Specifically, to the extent Wilson's notice of appeal—filed on May 19, 2021—can be construed as seeking to appeal from the district court's March 31, 2021 order and judgment granting summary judgment, it is untimely to do so, and Wilson's motion for reconsideration—filed on April 29, 2021—was not timely to toll the time for him to appeal from that order. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A) (providing that a notice of appeal in a civil case is timely if it is filed within 30 days after entry of the judgment or order appealed from); Fed. R. App. P. 4(a)(4)(A).

We will now turn to the ruling over which we do have appellate jurisdiction, the denial of Wilson's motion for reconsideration.

II

Summary disposition is appropriate, in part, 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).

When appropriate, we will review the denial of a Rule 59(e) motion for reconsideration for an abuse of discretion. *Lockard v. Equifax, Inc.*, 163 F.3d 1259, 1267 (11th Cir. 1998). We may affirm the district court's judgment on any ground supported by the record, regardless of whether that ground was relied upon or even considered by the court. *Kernel Records Oy v. Mosley*, 694 F.3d 1294, 1309 (11th Cir. 2012). Additionally, *pro se* pleadings are held to a less stringent standard than those drafted by attorneys and are thus liberally construed. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). Nevertheless, despite the leniency afforded to *pro se* litigants, they are still required to conform to procedural rules. *Loren v. Sasser*, 309 F.3d 1296, 1304 (11th Cir. 2002). Further, any issue, legal claim, or argument that an appellant does not raise in his initial brief "is deemed abandoned and its merits will not be

addressed." *Access Now, Inc. v. Southwest Airlines Co.*, 385 F.3d 1324, 1330 (11th Cir. 2004).

Rule 59(e) allows a party to move to alter or amend the judgment in a civil case. Fed. R. Civ. P. 59(e). As relevant here, a Rule 59(e) motion "must be filed no later than 28 days after the entry of the judgment." *Id.* Further, a district court "must not extend the time to act under" Rule 59(e). Fed. R. Civ. P. 6(b)(2); *see also Green v. DEA*, 606 F.3d 1296, 1300 (11th Cir. 2010) ("To help preserve the finality of judgments, a court may not extend the time to file a Rule 59(e) motion.").

A Rule 59(e) motion is appropriate where the relief sought in the motion is "the setting aside of the grant of summary judgment, denial of the defendant's motion for summary judgment, and trial on the merits of the case." *Mays v. U.S. Postal Serv.*, 122 F.3d 43, 46 (11th Cir. 1997). Importantly, however, a party "cannot use a Rule 59(e) motion to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." *Michael Linet, Inc. v. Vill. of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005). Rather, a court may only grant a Rule 59(e) motion on the basis of newly discovered evidence or manifest errors of law or fact. *PBT Real Est., LLC v. Town of Palm Beach*, 988 F.3d 1274, 1287 (11th Cir. 2021). For example, "[i]n the summary

judgment context, the movant must show that the new evidence was unavailable at the time that summary judgment was granted." *Id.*

Here, the district court did not abuse its discretion in denying Wilson's motion for reconsideration for two reasons. First, it was untimely. The district court entered its final order granting summary judgment for State Farm on March 31 and, consequently, Wilson had to file his Rule 59(e) motion on or before April 28. *See* Fed. R. Civ. P. 59(e). However, he did not file his motion until April 29. Further, even though he was proceeding *pro se* when he filed his motion, he was still required to follow the procedural rules and the district court did not have the authority to extend the time for him to file his motion. *See Loren*, 309 F.3d at 1304; *see also* Fed. R. Civ. P. 6(b)(2); *Green*, 606 F.3d at 1300. Therefore, it was untimely.

Second, Wilson repeated arguments that he had previously raised in his motion, which is not permitted. *See Michael Linet, Inc.*, 408 F.3d at 763. Specifically, he repeatedly argued that State Farm exceeded the scope of its investigation by questioning him about insurance claims that occurred more than three years before the claim at issue. In sum, the district court did not abuse its discretion in denying Wilson's motion for reconsideration.

Thus, because State Farm's position is correct as a matter of law, we GRANT State Farm's motion for summary affirmance. *See Groendyke Transp.,*

Inc., 406 F.2d at 1162. Accordingly, we DENY the motion to stay the briefing schedule as moot.