[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 21-14424

Non-Argument Calendar

JOAN P. DAVIS,

Plaintiff-Appellant,

versus

DAVID ERICH NAHMIAS,
of the Georgia Supreme Court,
in his individual capacity,
HEIDI M. FAENZA,
Director of Admissions ofthe Office of Bar Admissions,
in her individual capacity,
JOHN C. SAMMON,
Chairman of the Board to Determine Fitness of Bar Applicants,
in his individual capacity,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:21-cv-02413-MHC

Before JORDAN, NEWSOM, and LAGOA, Circuit Judges.

PER CURIAM:

Joan P. Davis, a formerly-licensed attorney proceeding *pro se*, appeals following the dismissal of her amended complaint for lack of jurisdiction. On appeal, Davis argues that the district court erred in dismissing her challenges to certain Bar readmission rules and procedures based on the *Rooker-Feldman* doctrine.[1] She also contends that the court erred in finding that she failed to state a claim for relief as to one defendant, and in concluding that any claims for monetary damages were barred by judicial immunity. We address these arguments in turn.

I.

[1] *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of App. v. Feldman*, 460 U.S. 462 (1983).

Court filings[2] show that Davis had been licensed to practice law in the State of Georgia. *See In re Davis* ("*Davis I*"), 725 S.E.2d 216 (2012). At some point, however, the State Bar of Georgia ("State Bar") charged her with violating certain provisions of the Georgia Rules of Professional Conduct in two disciplinary actions. *Id.* at 217. A special master later concluded that she had violated the rules as alleged and that disbarment was the only appropriate punishment under the circumstances. *Id.* at 218. She ultimately sought judicial review of the preceding, but the Georgia Supreme Court affirmed and ordered her disbarred in 2012. *Id.* at 220.

In 2017, Davis applied to the Georgia Office of Bar Admissions for reinstatement. *See In re Davis* ("*Davis II*"), 834 S.E.2d 93 (2019). The Office's Board to Determine Fitness of Bar Applicants (the "Board"), however, denied her application. *Id.* at 94. She sought judicial review of that decision, but the Georgia Supreme Court upheld the Board's decision and denied her application for reinstatement in 2019. *Id.* at 96.

In 2021, Davis filed the present *pro se* suit in the Northern District of Georgia. In an amended complaint, she identified three officials—"David E. Nahmias, Chief Justice of the Georgia Supreme Court, [i]n his individual capacity; Heidi M. Faenza, Director of Admissions of the Office of Bar Admissions, [i]n her individual capacity; [and] John C. Sammon, Chairman of the Board to

[2] We note that Davis cited to the following cases in her amended complaint, and the district court took notice of them without objection.

Determine Fitness of Bar Applicants ("the Board"), in his individual capacity"—as defendants. Citing to both *Davis I* and *Davis II*, Davis alleged nine counts against the defendants, claiming various federal and state constitutional violations. In her prayer for relief, she did not expressly request an award of damages, but she did seek "such further legal and equitable relief as is equitable and just."

The defendants moved to dismiss Davis's amended complaint. And the district court dismissed Davis's complaint because, after citing to both *Davis I* and *Davis II*, it concluded that she was, in fact, seeking review of the 2019 judicial decision in her case. The court explained:

> Davis has crafted the language of her Amended Complaint to give the appearance of a general challenge to the constitutionality of the Bar rules, but a careful review of her allegations reveal that *she is, in reality, seeking the reversal of the denial of her Application for Reinstatement*.

(Emphasis added). Thus, the court dismissed her suit for lack of subject-matter jurisdiction, based on the *Rooker-Feldman* doctrine, as her claims were inextricably intertwined with the state court's adjudication of her application. It alternatively found that Davis failed to state a claim for relief as to Faenza, as none of the purported wrongdoing on the part of Faenza was alleged in her amended complaint, and that any claims for monetary damages by Davis were barred by judicial immunity, as defendants were acting in their capacities as a judicial officer and agents of the court.

This appeal ensued. On appeal, Davis challenges the preceding determinations.[3] For ease of reference, we will address each point in turn.

II.

We review *de novo* a district court's determination that it lacks subject-matter jurisdiction. *Behr v. Campbell*, 8 F.4th 1206, 1209 (11th Cir. 2021).

Federal courts have subject-matter jurisdiction over cases which involve questions of federal law. 28 U.S.C. § 1331. They may also exercise supplemental jurisdiction over state law claims under certain circumstances. *See, e.g.*, 28 U.S.C. § 1367.

The *Rooker-Feldman* doctrine, however, bars federal district courts from reviewing state-court decisions, because lower federal courts lack subject-matter jurisdiction over final state-court judgments. *Behr*, 8 F.4th at 1208. It applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544

[3] Davis also argues that the district court failed to construe her amended complaint liberally. Although we ordinarily construe *pro se* pleadings liberally, *Holsomback v. White*, 133 F.3d 1382, 1386 (11th Cir. 1998), there is no need for a liberal construction where the *pro se* litigant is an attorney, *see Olivares v. Martin*, 555 F.2d 1192, 1194 n.1 (5th Cir. 1977).

U.S. 280, 284 (2005). These injuries must be caused by the judgment itself. *Behr*, 8 F.4th at 1212.

The *Rooker-Feldman* doctrine applies not only to federal claims actually raised in the state court, but also to those that are "inextricably intertwined" with a state court judgment. *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009). But a federal claim is only "inextricably intertwined" with a state-court claim when, in substance, it amounts to a direct appeal of, or a direct attack on, the state-court judgment, even if the appellant does not refer to their proceeding as a direct appeal. *Behr*, 8 F.4th at 1211.

For example, in *Behr*, we noted that the Supreme Court had held that a request for a declaration that the state court's judgment was arbitrary and capricious was, in effect, an attempt to directly appeal the state court's judgment and was thus inextricably intertwined with the state-court claims. *Id.* But a federal law claim is not "inextricably intertwined" with a state law one simply because it "require[s] some reconsideration of a decision of a state court," provided that the plaintiff presents "some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party." *Id.* at 1212 (quoting *Nicholson v. Shafe*, 558 F.3d 1266, 1288 (11th Cir. 2009)). We have explained that application of the *Rooker-Feldman* doctrine is a narrow, claim specific inquiry:

> Unlike many doctrines, [*Rooker-Feldman*] is not prudential—it is based explicitly on the statutory limitations of federal district courts' jurisdiction. Only

> when a losing state court litigant calls on a district court to modify or 'overturn an injurious state-court judgment' should a claim be dismissed under *Rooker-Feldman*; district courts do not lose subject matter jurisdiction over a claim 'simply because a party attempts to litigate in federal court a matter previously litigated in state court.' Nor is *Rooker-Feldman* 'simply preclusion by another name.' To be sure, other doctrines of preclusion, abstention, or comity may still bar a plaintiff's claims—but they are separate and distinct from *Rooker-Feldman*'s jurisdictional prohibition on appellate review of state court decisions in federal district courts.

Id. at 1210 (citations omitted) (first quoting *Exxon Mobile*, 544 U.S. at 292–93; then quoting *Lance v. Dennis*, 546 U.S. 459, 466 (2006)). And we have emphasized that a "claim-by-claim approach is the right one." *Id.* at 1213.

In *Behr*, we analyzed "a 30-count *pro se* complaint" that presented "a wide variety of constitutional, statutory, and tort claims against 18 named defendants." *Id.* at 1208. The district court dismissed all 30 claims under *Rooker-Feldman* because "the claims were related to the Behrs' earlier state court litigation." *Id.* In reversing the district court's judgment of dismissal, we explained that the Supreme Court's decision in *Exxon Mobil* had "exposed the flaws in our significant expansion of *Rooker-Feldman*." *Id.* at 1210. We then concluded that *Exxon Mobil* showed that "considering whether a claim is 'inextricably intertwined' with a state court

judgment is not a second prong of the analysis"; rather, "it is merely a way of ensuring that courts do not exercise jurisdiction over the appeal of a state court judgment simply because the claimant does not call it an appeal of a state court judgment." *Id.* at 1212. We further stated that "the district court m[ight] ultimately have reason to dismiss" the remaining claims, "but not on *Rooker-Feldman* grounds." *Id.* at 1208.

In *Berman v. Florida Board of Bar Examiners*, 794 F.2d 1529, 1530 (11th Cir. 1986), a case relied on by the district court, we addressed an attorney's challenge to "a state court judicial proceeding resulting in the denial of a particular application (Berman's) for admission to the Florida Bar." Berman had specifically asked, in his prayer for relief, that the district court grant him admission to the Florida Bar. *Id.* We upheld the applicability of the *Rooker-Feldman* doctrine and held that a decision by a state supreme court in a particular case denying the admission of a particular bar applicant qualified as a final decision for *Rooker-Feldman* purposes. *Id.* We also explained that federal district courts lack jurisdiction over claims "that a state court's judicial decision in a particular case has resulted in the *unlawful denial of admission to a particular bar applicant*." *Id.* (emphasis added). But we noted that "[f]ederal district courts have jurisdiction over" challenges "to a state's general rules and procedures governing admission." *Id.*

Here, we conclude that the following of Davis's claims were a direct appeal of, or a *de facto* appeal of, harmful state court judgments: (1) the equal protection claims; and (2) Counts Two, Three,

Four, Five, and Eight of Davis's amended complaint, which alleged that the defendants acted improperly in deciding her application for reinstatement. Because the district court could not reject the Georgia Supreme Court's ruling on her particular application, her claims were tantamount to an appeal of the 2019 state court judgment, which was barred by *Rooker-Feldman*. *Behr*, 8 F.4th at 1211. Accordingly, the district court did not err in dismissing these claims under *Rooker-Feldman*, as each of these claims amounted to an impermissible appeal of a final state court judgment. *Exxon Mobil*, 544 U.S. at 284.

We note that the remaining claims in Davis's amended complaint—Counts One, Six, Seven, and Nine, except for the equal protection aspect of Counts Seven and Nine—discussed and referenced the prior state court litigation. Nevertheless, we conclude that they did not make the claims a direct appeal of, or a *de facto* appeal of, the state court judgment, as success in any of these claims would not invalidate or undermine the state court judgment. *Exxon Mobil Corp.*, 544 U.S. at 284; *Behr*, 8 F.4th at 1211. Further, Davis, unlike the plaintiffs in *Feldman* and *Berman*, did not request admission to the bar in her prayer for relief. *See Berman*, 794 F.2d at 1530; *see also Behr*, 8 F.4th at 1210 n.1 (describing *Feldman*). And because "considering whether a claim is 'inextricably intertwined' with a state court judgment is . . . merely a way of ensuring that courts do not exercise jurisdiction over the appeal of a state court judgment simply because the claimant does not call it an appeal of a state court judgment," we conclude that the district court

erred in concluding that the *Rooker-Feldman* doctrine applied to these claims, which were not appeals or de facto appeals of the Georgia Supreme Court's rulings. *Behr*, 8 F.4th at 1212.

While we conclude that the district court erred in dismissing some of Davis's claims under *Rooker-Feldman*, we express no position on the potential merit of these remaining claims.

III.

We review *de novo* a district court's dismissal of a complaint for failure to state a claim. *Evanto v. Fed. Nat'l Mortg. Ass'n*, 814 F.3d 1295, 1297 (11th Cir. 2016). In doing so, we accept the allegations in the complaint as true and construe them in the light most favorable to the plaintiff. *World Holdings, LLC v. Federal Republic of* Germany, 701 F.3d 641, 649 (11th Cir. 2012). To survive a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss, a complaint must allege sufficient facts to state a claim that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "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.* When considering a motion to dismiss, the district court generally must limit its consideration to the pleadings and any exhibits attached. *Grossman v. Nationsbank, N.A.*, 225 F.3d 1228, 1231 (11th Cir. 2000).

We also review *de novo* whether an official is entitled to judicial immunity. *Smith v. Shook*, 237 F.3d 1322, 1325 (11th Cir. 2001). Judges are entitled to absolute judicial immunity from

damages for their acts taken while acting in their judicial capacity unless they acted in the "clear absence of all jurisdiction." *Bolin v. Story*, 225 F.3d 1234, 1239 (11th Cir. 2000) (quoting *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)). Whether a judge's actions were made while acting in his judicial capacity depends on whether: "(1) the act complained of constituted a normal judicial function; (2) the events occurred in the judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity." *Sibley v. Lando*, 437 F.3d 1067, 1070 (11th Cir. 2005). A judge enjoys immunity for judicial acts even if he made a mistake, acted maliciously, or exceeded his authority. *McCullough v. Finley*, 907 F.3d 1324, 1331 (11th Cir. 2018).

We may affirm the district court's decision for reasons different than those stated by the district court. *Turlington v. Atlanta Gas Light Co.*, 135 F.3d 1428, 1433 n.9 (11th Cir. 1998). If a district court does not consider alternative grounds for dismissal, however, we can also remand for the district court to do so in the first instance. *See Behr*, 8 F.4th at 1214. An appellant can abandon a claim by: (1) making only passing reference to it, (2) raising it in a perfunctory manner without supporting arguments and authority, (3) referring to it only in the "statement of the case" or "summary of the argument," or (4) referring to the issue as mere background to the appellant's main arguments. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681–82 (11th Cir. 2014).

Here, the district court correctly found that, if it had jurisdiction, it would dismiss Davis's amended complaint for failure to state a claim against Faenza. This was proper because, while Davis mentioned the role Faenza played in the application process in her amended complaint, she failed to plead any "factual content that [would] allow[] the court to draw the reasonable inference that [Faenza was] liable for [any] misconduct" by failing altogether to assert which violations of her rights Faenza played a role in. *Iqbal*, 556 U.S. at 678. In other words, the amended complaint did not tie any of Faenza's acts to any violation of Davis's rights, thus failing to state a claim for relief under Rule 12(b)(6). *Id.* And the district court was correct to limit its consideration to the amended complaint. *Grossman*, 225 F.3d at 1231.

In addition, the district court properly dismissed, on judicial immunity grounds, any claims by Davis for monetary damages. She requested damages only to the extent that her prayer for relief asked for costs, expenses of litigation, and unspecified other legal and equitable as is equitable and just under the circumstances. As much as this portion of the amended complaint constituted a request for monetary damages, however, the district court correctly concluded that judicial immunity barred the claim. Davis does not, and could not, argue that the defendants here acted in the clear absence of jurisdiction. *Bolin*, 225 F.3d at 1239. In addition, her amended complaint establishes that the actions of the defendants were part of a normal judicial function. *See Sibley*, 437 F.3d at 1070. Davis also does not challenge the district court's conclusion

that judicial immunity applied to all three defendants, rather than just Justice Nahmias, so any potential argument in this respect is abandoned. *Sapuppo*, 739 F.3d at 681-82. Thus, the district court correctly determined that any request for monetary damages was barred by judicial immunity.

IV.

In sum, we affirm, in part, as to the dismissal of: (i) the equal protection claims in Davis's amended complaint, as well as Counts Two, Three, Four, Five, and Eight, for lack of subject-matter jurisdiction; and (ii) any claims against Faenza, for failure to state a claim upon which relief could be granted; and (iii) any claims again the defendants for monetary damages, as barred by judicial immunity. However, we vacate in part, as to the dismissal of Davis's remaining claims underlying Counts One, Six, Seven, and Nine, and remand the case for further proceedings in that respect.

AFFIRMED IN PART, VACATED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.