

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13480
Non-Argument Calendar

ALBERTA ROSE JOSEPHINE JONES,

Plaintiff-Appellant,

versus

SHERRY DUDLEY,
THOMAS E. DAVIS,
AND DOES 1 THRU 10,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-03017-JPB

Before JORDAN, LUCK, and WILSON, Circuit Judges.

PER CURIAM:

Pro se litigant, Alberta Jones, set forth what appeared to be multiple wrongful death claims based on her brother's passing. But she did not connect her allegations to a cause of action. And she did not separate her claims against the various defendants she sued. The district court dismissed her complaint as a shotgun pleading, ordering Jones to amend her complaint and providing specific instructions on how to do so. Because Jones failed to amend her complaint, the district court dismissed her case with prejudice. Jones now appeals the district court's dismissal. After careful review, we affirm.

FACTUAL BACKGROUND

In her complaint, Jones alleged the following facts about the death of her brother, Joseph Dudley. Months before Joseph's death, his security system was malfunctioning, "he had some things happening on the property that concerned him," and "[h]e was keeping a watchful eye for intruders."

On July 29, 2020, Joseph passed away at his home in Georgia. His wife, Sherry Dudley, who discovered Joseph's body, said that it appeared that he "had fallen down the steps leading to their front door." Funeral director and coroner Thomas Davis came over, pronounced Joseph's death, and signed the death certificate. But Davis pronounced Joseph's time of death with the wrong time and "without properly testing the body." Sherry and Davis stated in Joseph's death certificate that his death "may have been attributed" to a previous fall that he suffered six years ago even though he "had no physical impairment."

23-13480

Opinion of the Court

3

Joseph's death certificate listed Joseph's death as caused by hypertensive cardiovascular disease. The death certificate made "no reference to what medications he was taking" or "when he was last seen by his doctor." Further, Joseph's physician "was never contacted to sign the death certificate or to examine the body."

Joseph was cremated. At some point after his cremation, Jones was notified of her brother's death. Finding Joseph's death to be suspicious, Jones made multiple public records requests for photographs or other information from the county sheriff's office. Despite her public records request, the sheriff's department refused to release any photographs, "saying it was under investigation."

PROCEDURAL HISTORY

Jones first sued Sherry. After six months without service, the district court ordered Jones to show good cause why the case should not be dismissed. Jones moved for additional time to serve and to amend her complaint. The district court granted her motion.

Jones then filed an amended complaint, suing Sherry, Davis, and ten unidentified defendants. In short, she alleged that "her brother's body was unlawfully removed" by Sherry and Davis to a funeral home. She further contended that Sherry made "false allegations" of Joseph "possessing a false physical impairment," that Joseph's death "as attributed by hypertension cardiovascular disease" was "farthest from the truth," and that it could not under Georgia law "be formally used as a cause of death." So, according to Jones, her brother's "death certificate [wa]s invalid and . . .

written and obtained under false pretenses.” Finally, Jones alleged that the death “should have been properly investigated” and his death certificate “should have been at a minimum signed by his ongoing physician.” Based on these allegations, Jones stated that she was “traumatized . . . and suffer[ed] from her brother’s passing.” Jones requested another extension of time to serve the defendants, which the district court granted. Finally, Jones served Davis and Sherry.

Sherry moved to dismiss the complaint. In response, Jones moved for another extension of time and leave to file a second amended complaint. She also filed a motion titled “Motion to Respectfully Address the Court for Service to Take Place Electronically via Email and Facts Surrounding this Case,” where she alleged additional facts and requested leave to serve additional defendants by email. The district court entered an order addressing these motions.

First, the district court concluded that the complaint was a shotgun pleading because it “set[] forth conclusory allegations and vague allegations of wrongdoings, such that no one defendant can identify what exactly he or she did wrong.” The district court then provided instructions on what, “[a]t a minimum, the amended pleading must include:”

- 1) A background section stating the facts relevant to all claims, presented in individually numbered paragraphs.

23-13480

Opinion of the Court

5

- 2) A separate section for each cause of action that sets forth in individually numbered paragraphs the legal elements of the cause of action and the relevant facts showing an entitlement to relief for such cause of action. . . .
- 3) . . . [T]he relief [Jones] seeks as well as an explanation of why she is entitled to such relief.
- 4) . . . [W]hat precise conduct is attributable to each individual defendant separately in each count.

The district court specified that it was giving Jones a “final opportunity to amend” her complaint within fourteen days of the order. It cautioned that “[f]ailure to file an amended complaint may result in dismissal of this action with prejudice.” The district court then denied Jones’s motion for electronic service, denied as moot Sherry’s motion to dismiss, and granted Jones leave to file an amended complaint.

Again, Jones moved for an extension of time. The district court granted that motion. In doing so, it “note[d] that [Jones] ha[d] requested, and the [c]ourt ha[d] granted, several extensions of time” already. Thus, the court explained, “[i]n the interest of justice and to prevent any undue delay, [the district court] d[id] not intend to grant any further extensions for [Jones] to file her amended complaint.” Jones didn’t file an amended complaint by the extended deadline. So the district court dismissed the case with prejudice. Jones now appeals.

STANDARD OF REVIEW

We review for abuse of discretion a dismissal on Federal Rule of Civil Procedure 8 shotgun pleading grounds. *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1294 (11th Cir. 2018). We also review for abuse of discretion a district court's order dismissing an action for failure to comply with the rules of the district court. *Zo-caras v. Castro*, 465 F.3d 479, 483 (11th Cir. 2006).

DISCUSSION

Jones makes two arguments on appeal. First, she contends that the district court erred in dismissing her complaint as a shotgun pleading. Second, she maintains the district court abused its discretion in denying her an “appropriate amount of time” to amend her complaint. We take each argument in turn.

Jones's Complaint Was a Shotgun Pleading

A complaint must contain a short and plain statement of the claim showing that the plaintiff is entitled to relief. Fed. R. Civ. P. 8(a)(2). This short and plain statement must “give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quotation marks omitted and alterations adopted). Additionally, claims should be stated in numbered paragraphs, each limited as far as practicable to a single set of circumstances. Fed. R. Civ. P. 10(b).

Complaints that violate these rules are often referred to as “shotgun pleadings.” *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1320 (11th Cir. 2015). There are four main types of

23-13480

Opinion of the Court

7

shotgun complaints: (1) a complaint where each count realleges previous allegations so that “the last count [is] a combination of the entire complaint” and includes large amounts of irrelevant information; (2) a complaint which is “replete with conclusory, vague, and immaterial facts”; (3) a complaint which fails to separate each claim for relief into a different count; and (4) a complaint that alleges multiple claims against multiple defendants in each count, without identifying which defendants are responsible for which claims. *Id.* at 1321–23. The “unifying characteristic” of shotgun pleadings is that they fail “to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Id.* at 1323.

We construe a pro se litigant’s pleadings liberally. *Alba v. Montford*, 517 F.3d 1249, 1252 (11th Cir. 2008). However, that “leniency does not give a court license to serve as de facto counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action.” *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014) (quotation marks omitted).

Here, the district court did not abuse its discretion in dismissing Jones’s first amended complaint as an impermissible shotgun pleading. First, as the district court explained, the amended complaint “set[] forth various details regarding the circumstance surrounding her brother’s death,” but “fail[ed] to connect those allegations to any particular cause of action.” The complaint contained a background section with the alleged facts. Then, stating that Jones “researched the following State of Georgia laws

regarding unattended deaths and proper completion of death certificates in the state,” the complaint listed various Georgia state statutes (alternating between the 2010 or 2017 Official Code of Georgia Annotated) including a table of contents, and sections related to death certificates, releasing remains of the deceased by the coroner to next of kin, medical examiner inquiries, and coroners’ death investigations. But Jones did not explain how those laws were implicated in this case. Then, she made conclusory allegations that “there was criminal activity in not only her brother’s death but in the proper handling of his remains and the falsification of her brother’s death certificate” and that “her brother’s body was unlawfully removed by” Davis and Sherry. So the complaint is guilty of the second type of shotgun pleading. It was “replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action.” *Weiland*, 792 F.3d at 1322.

Second, the complaint “consistently refer[red] to the defendants together . . . without distinguishing each defendant’s specific actions,” making it “such that no one defendant can identify what exactly he or she did wrong.” For example, Jones’s allegation that her brother’s “death certificate [wa]s invalid and . . . written and obtained under false pretenses” does not make clear whether Sherry or Davis or one of the other ten defendants were responsible for the false pretenses. It’s not clear whether Jones was accusing Sherry of causing Joseph’s death, covering it up, unlawfully removing his body, or all of the above. Similarly, it’s not clear whether Jones is accusing Davis of intentionally or negligently covering up Joseph’s death or unlawfully removing his body. That falls

23-13480

Opinion of the Court

9

squarely in the fourth type of shotgun pleading. Jones alleged seemingly “multiple claims against multiple defendants” but she did not “identify[] which defendant[was] responsible for which claims.” *Id.* at 1321–23.

Even under a liberal reading, *Alba*, 517 F.3d at 1252, it simply cannot be said that the complaint “g[a]ve the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Weiland*, 792 F.3d at 1323. Thus, the district court did not abuse its discretion in dismissing Jones’s first amended complaint without prejudice as an impermissible shotgun pleading. *Vibe Micro, Inc.*, 878 F.3d. at 1296 (explaining that if a district court identifies that a complaint is a shotgun complaint, it generally must give the litigant one chance to replead, with instructions on the deficiencies).

Jones Failed to Comply With the District Court’s Order

A district court may dismiss a case for failure to comply with a court order “under the authority of either Rule 41(b) or the court’s inherent power to manage its docket.” *Weiland*, 792 F.3d at 1321 n.10; *see also* Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with [the Rules of Civil Procedure] or a court order, a defendant may move to dismiss the action or any claim against it.”). Dismissal with prejudice “is an extreme sanction that may be properly imposed *only* when: (1) a party engage[d] in a clear pattern of delay or willful contempt (contumacious conduct); and (2) the district court specifically finds that lesser sanctions would not suffice.” *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d

1333, 1337-38 (11th Cir. 2005) (quotation marks omitted). Although dismissal with prejudice is a drastic remedy, we have stated that “dismissal upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion.” *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989).

Here, the district court did not abuse its discretion in dismissing Jones’s action without prejudice. The district court initially granted leave for Jones to amend her shotgun complaint with specific instructions on how to cure the deficiencies in her complaint. It gave her a specific deadline to file her amended complaint and informed her that failing to do so could result in dismissal with prejudice. Instead of adhering to that deadline, Jones asked for more time—for the third time. When the district court granted her an extension, it made clear that, “[i]n the interest of justice and to prevent any undue delay,” this would be the last extension. Still, Jones failed to file a timely amended complaint. So district court dismissed her action with prejudice. Because Jones had a “clear pattern” of requesting extensions and failed to comply with the district court’s order—even after the district court warned her on two separate occasions that it would dismiss the action with prejudice should she fail to file her amended complaint—it was not an abuse of discretion for the district court to follow through with its warning.

CONCLUSION

In sum, the district court did not abuse its discretion in dismissing Jones’s first amended complaint as an impermissible

23-13480

Opinion of the Court

11

shotgun pleading. Further, it did not abuse its discretion in dismissing Jones's action with prejudice when Jones failed to file an amended complaint pursuant to the district court's order.

AFFIRMED.