

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13625

Non-Argument Calendar

GLEN EARL CLAIBORNE, SR.,

Plaintiff-Appellant,

versus

JP MORGAN CHASE BANK NATIONAL
ASSOCIATION, et al.,

Defendants,

JP MORGAN CHASE BANK NA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:18-cv-05542-SDG

Before ROSENBAUM, ABUDU, and WILSON, Circuit Judges.

PER CURIAM:

Glen Earl Claiborne, Sr., proceeding pro se, appeals the district court’s order denying two of his post-judgment motions. The first is titled, “Motion for Leave of Court Pursuant to Fed. Rules of Civil Procedure, Rule 15 to File Plaintiff Motion in Limine to Strike the Defendants’ Pleadings, Motions, and Advocacy for Pleadings, Granting Relief in the Alternate and Filing a Motion for Violation of Federal Rule of Civil Procedure 11” (motion for leave). The second is titled, “Objections,” and the district court construed it as a motion for reconsideration of its denial of various post-judgment motions (motion for reconsideration). Claiborne argues in his initial brief that the district court erred by denying his motion for leave for lack of jurisdiction and in his reply brief that the district court committed the same error as to both motions. After careful review, we affirm.

“A post-judgment motion may be treated as made pursuant to either Fed. R. Civ. P. 59 or 60—regardless of how the motion is styled by the movant—depending on the type of relief sought.” *Mays v. U.S. Postal Serv.*, 122 F.3d 43, 46 (11th Cir. 1997) (per

23-13625

Opinion of the Court

3

curiam). We review the denial of both a Rule 59(e) motion to alter or amend judgment and a Rule 60 motion for relief from a judgment or order for an abuse of discretion. *Berry v. Crestwood Healthcare LP*, 84 F.4th 1300, 1313 (11th Cir. 2023); *Willard v. Fairfield S. Co.*, 472 F.3d 817, 821 (11th Cir. 2006). A Rule 59(e) motion must be based on “newly-discovered evidence or manifest errors of law or fact”; it may not be used to “relitigate old matters . . . that could have been raised prior to the entry of judgment.” *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (per curiam) (quotation marks omitted). For Rule 60(b), the appellant “must demonstrate a justification so compelling that the district court was required to vacate its order.” *Galbert v. W. Caribbean Airways*, 715 F.3d 1290, 1294 (11th Cir. 2013) (quotation marks omitted).

“[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously.” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (per curiam). Accordingly, filing a notice of appeal is “an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Id.* Therefore, if a case “rests before the Court of Appeals,” the district court has no power to alter the status of the case. *Green Leaf Nursery v. E.I. DuPont De Nemours & Co.*, 341 F.3d 1292, 1309 (11th Cir. 2003). If a district court lacks authority to grant a timely motion for relief “because of an appeal that has been docketed and is pending,” the court may deny the motion. Fed. R. Civ. P. 62.1(a)(2).

But a district court retains jurisdiction over a Rule 60(b) motion to consider its merits. *Mahone v. Ray*, 326 F.3d 1176, 1180 (11th Cir. 2003). “It may then deny the motion or indicate its belief that the arguments raised are meritorious,” but may not grant the motion. *Id.* “[T]he movant may then petition the court of appeals to remand the matter so as to confer jurisdiction on the district court to grant the motion.” *Id.*

As an initial matter, Claiborne forfeited his arguments about the motion for reconsideration because he raised them for the first time in his reply brief. Although “we read briefs filed by *pro se* litigants liberally,” “we do not address arguments raised for the first time in a *pro se* litigant’s reply brief.” *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (per curiam). We do not review forfeited issues outside of a limited set of exceptions. *United States v. Campbell*, 26 F.4th 860, 873 (11th Cir. 2022) (en banc). No exception applies here, so we proceed to consider only Claiborne’s arguments related to his motion for leave.

The district court did not abuse its discretion by denying Claiborne’s motion for leave for lack of jurisdiction. The motion sought permission to relitigate summary judgment, even though he had appealed the district court’s grant of summary judgment. Thus, the subject of Claiborne’s motion for leave rested before us, divesting the district court of jurisdiction over the motion. See *Griggs*, 459 U.S. at 58. And to the extent that the district court retained any jurisdiction, see *Mahone*, 326 F.3d at 1180, it did not abuse its discretion by denying the motion for leave when it only

23-13625

Opinion of the Court

5

repeated arguments Claiborne had raised in prior motions and which the district court previously considered and rejected. Accordingly, we affirm.¹

AFFIRMED.

¹ Claiborne's Motion to Request a Copy of the Record is DENIED.