

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10581
Non-Argument Calendar

SUPREME BORN,

Plaintiff-Appellant,

versus

RANDALL WOODFIN,

PATRICK SMITH,

Chief,

JOYLYN GRAIG,

Detective,

MICHAEL T. ANDERTON,

KANDICE PICKETT, et al.,

Defendants-Appellees,

BIRMINGHAM POLICE DEPARTMENT,

Defendant.

Appeal from the United States District Court
for the Northern District of Alabama
D.C. Docket No. 7:22-cv-00747-RDP-GMB

Before JILL PRYOR, BRANCH, and LUCK, Circuit Judges.

PER CURIAM:

Supreme Born, an Alabama prisoner proceeding pro se, appeals the dismissal of his malicious-prosecution claim. After careful review, we affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

In 2017, Birmingham police officers executed a warrant to arrest Born in connection with a shooting at a butcher shop. The next year, Born was convicted of four felonies: one count of attempted murder; two counts of discharging a firearm into an occupied vehicle; and one count of discharging a firearm into an unoccupied vehicle.

He appealed to the Alabama Court of Criminal Appeals, arguing that the state hadn't introduced sufficient evidence to support his convictions. The state appellate court rejected his arguments as to three of the four convictions. But it agreed with Born as to the fourth—one of the two convictions for discharging a firearm into an occupied vehicle. As to that conviction, the state appellate court explained, while the state's trial evidence showed Born "fired a shot into" the victim's vehicle, the evidence was "insufficient to establish beyond a reasonable doubt that [the victim's]

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vehicle was occupied at the time of the shooting.” Thus, the state appellate court reversed that conviction.

Four years later, Born sued several of the officials involved in his arrest, trial, and conviction in federal court for malicious prosecution under 42 U.S.C. section 1983. His complaint alleged that, without probable cause, Detective Joylyn Craig filed several criminal complaints against Born in connection with the shooting incident, even though she had not been present during the incident and had no personal knowledge of it. Born alleged that, acting “with reckless disregard for the truth,” and under the direction of the police chief and mayor, Detective Craig “misle[d] or deceived” a magistrate judge by “making false statements without [] personal knowledge” in order to obtain a warrant. Because the warrant was wrongfully obtained, Born continued, his arrest, conviction, and detention were all unlawful.

Because Born was a prisoner suing government officials, a magistrate judge screened his malicious-prosecution claim. *See* 28 U.S.C. § 1915A(a). The magistrate judge recommended dismissal. Born, the magistrate judge explained, “d[id] not allege malice and d[id] not specify the statements that were falsified or the evidence that was fabricated.” So he hadn’t stated a plausible malicious-prosecution claim.

Born objected to the magistrate judge’s recommendation. As relevant here, he argued that, in seeking the arrest warrant, Detective Craig “made several false statement[s] that Born shot into

occupied vehicles [when] the vehicle[s] were not occupied,” “committed perjury” by saying “she witnessed Born shooting into an occupied vehicle,” and “fabricat[ed] evidence” about what she’d seen on a security camera video of the shooting incident. The district court adopted the magistrate judge’s recommendation and dismissed the malicious-prosecution claim over Born’s objection.

Born appeals the dismissal.¹

STANDARD OF REVIEW

We review de novo the sua sponte dismissal of an action for failure to state a claim under the Prison Litigation Reform Act. *Leal v. Ga. Dep’t of Corr.*, 254 F.3d 1276, 1279 (11th Cir. 2001).

DISCUSSION

On appeal, Born argues that the district court erred by dismissing his malicious-prosecution claim. We disagree.

The Prison Litigation Reform Act instructs district courts to review “a complaint in a civil action in which a prisoner seeks redress” from a governmental entity or employee “as soon as practicable.” 28 U.S.C. § 1915A(a). The court should “dismiss the complaint, or any portion of the complaint” if it “fails to state a claim on which relief may be granted.” *Id.* § 1915A(b).

¹ We granted leave to proceed on the malicious-prosecution claim.

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A plaintiff states a claim when he “pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Worthy v. City of Phenix City*, 930 F.3d 1206, 1217 (11th Cir. 2019) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). That standard does not require “detailed factual allegations,” but it does require more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *Id.* (citation modified). There must be enough factual allegations “to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact).” *Id.* (citation modified). And although we “liberally construe pro se filings,” we do not “serve as de facto counsel” for a pro se plaintiff or “rewrite an otherwise deficient pleading in order to sustain an action.” *In re Ellingsworth Residential Cmty. Ass’n*, 125 F.4th 1365 (11th Cir. 2025).

A Fourth Amendment malicious-prosecution claim requires plausible allegations of “both (1) the elements of the common-law tort of malicious prosecution and (2) a violation of [the plaintiff’s] Fourth Amendment right to be free from unreasonable seizures.” *Prospero v. Sullivan*, 153 F.4th 1171, 1182–83 (11th Cir. 2025) (quoting *Butler v. Smith*, 85 F.4th 1102, 1111 (11th Cir. 2023)). That means, in all, a malicious-prosecution plaintiff must plausibly allege six elements:

- (1) a criminal prosecution instituted or continued by the present defendant; (2) with malice and without probable cause; (3) that terminated in the plaintiff accused’s favor; and (4) caused damage to the plaintiff

accused[;] . . . (5) that the legal process justifying [the] seizure was constitutionally infirm[;] and (6) that [the] seizure would not otherwise be justified without legal process.

Id. (citation modified).

Born's complaint clearly alleged facts that satisfied the first, third, and fourth elements. He alleged that he was subject to criminal proceedings that caused him "indignity and disgrace," "loss of time, interruption of business," "injury to reputation," and other harms. And those criminal proceedings terminated in his favor when the state appellate court reversed his conviction for discharging a firearm into an occupied vehicle. *See Laskar v. Hurd*, 972 F.3d 1278, 1293 (11th Cir. 2020) (explaining that "a plaintiff can satisfy the favorable-termination requirement by proving that the prosecution against him formally ended in a manner not inconsistent with his innocence on at least one charge that authorized his confinement"); *see also Thompson v. Clark*, 596 U.S. 36, 39 (2022).

That leaves only the second, fifth, and sixth elements. As we've explained, those elements "collectively require us to consider (1) whether the defendant intentionally or recklessly made misstatements or omissions in the arrest affidavit, and (2) whether the arrest affidavit 'still would have established probable cause' absent the misstatements or omissions." *Prospero*, 153 F.4th at 1183 (quoting *Butler*, 85 F.4th at 1116).

Born's complaint did not allege sufficient facts as to either consideration. First, although Born asserts that Detective Craig

made “false statements” and “acted with reckless disregard for the truth,” he never alleged what the false statements were or how they were false. His complaint merely offered “a formulaic recitation of the elements of [the] cause of action” for malicious prosecution. *See Iqbal*, 556 U.S. at 678 (citation modified). Aside from these conclusory statements, Born did not offer enough factual detail for the district court to plausibly infer that Detective Craig recklessly made false statements in support of her warrant application. *See id.* (explaining that a complaint which “tenders naked assertions devoid of further factual enhancement” does not state a claim (citation modified)).

Second, and because it did not offer any details of the allegedly false statements, Born’s malicious-prosecution claim did not allow the district court to reasonably infer that Detective Craig’s warrant application wouldn’t have established probable cause even without those statements. Because Born did not plead sufficient facts to “nudge[] [his] claim[] across the line from conceivable to plausible,” *see Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007), the district court did not err by dismissing it.

Born resists this conclusion, arguing that “the warrant was issued [solely] on [fabricated] evidence,” namely, Detective Craig’s statement that “she witnessed Born shooting into an occupied vehicle.” But those facts were not alleged in the complaint that the district court considered, and Born “cannot use his briefing to add new allegations and argue that those new assertions support his cause of action.” *See Michel v. NYP Holdings, Inc.*, 816 F.3d 686, 705

(11th Cir. 2016) (citing *Sterling Fin. Inv. Grp., Inc. v. Hammer*, 393 F.3d 1223, 1226 (11th Cir. 2004)).

AFFIRMED.