NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-11458
Non-Argument Calendar

DERRICK GREGORY JAMES,

Plaintiff-Appellant,

versus

THE GEO GROUP, INC.,
ASSISTANT WARDEN LAWRENCE,
CHRISTOPHER CRUZ,
Assistant Warden,
OFFICER UXAVIER BROOMSFIELD,
WALTON CI WARDEN,
CHARMANICA SPIVEY,
Assistant Warden (Women),
MS. PERRI SCOTT,
Dr. Coordinator,
CAPTAIN CHRISTOPHER CASTNER,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:22-cv-80298-JEM

Before NEWSOM, LUCK, and KIDD, Circuit Judges.

PER CURIAM:

Derrick James appeals the district court's dismissal of his third amended complaint and the striking of his fourth amended complaint. After careful consideration, we affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The events underlying this appeal occurred while Derrick James was a prisoner at South Bay Correctional Facility. South Bay is a state facility operated by The GEO Group, Inc.

James was stabbed by other inmates at South Bay on two occasions. First, a member of a prison gang stabbed him five times in the back of the head with a shank. Prison officials took James to the medical department and then to the hospital for treatment. After he recovered, prison officials placed him in confinement because of an unrelated disciplinary violation. While in confinement, James learned that a gang leader promised the man who stabbed him $200 and four packs of cigarettes. James requested a transfer to a different facility and also filed several formal and informal complaints with prison officials expressing fear for his safety at South Bay. Instead of transferring him, though, James was released into the general population. About a month later, a different gang-

affiliated inmate stabbed James. Medical staff treated him, and he was again released into the general population.

James, initially pro se, sued GEO Group and prison officials under 42 U.S.C. section 1983. James alleged that the attacks were the result of deliberate indifference and inadequate supervision by GEO Group and its employees, in violation of the Eighth Amendment.

After an initial screening, the district court allowed the complaint to proceed. That's when James filed his first amended complaint as a matter of right under Federal Rule of Civil Procedure 15(a)(1).

Now represented, and with leave of court under rule 15(a)(2), James filed a second amended complaint. The defendants, in response, moved to dismiss, arguing that it was a shotgun pleading. The district court agreed, explaining that the second amended complaint presented the facts in a lengthy unstructured narrative, used vague and conclusory language, lumped together allegations against multiple defendants without delineating which acts pertain to which defendants, and failed to separate each cause of action into different counts. The district court dismissed the second amended complaint without prejudice and gave James another opportunity to amend.

Taking the opportunity, James (still represented by counsel) filed his third amended complaint. The defendants again moved to dismiss, arguing that the third amended complaint was still a shotgun pleading.

At this point, James grew dissatisfied with his counsel. He moved "[t]o [d]ismiss [c]ounsel [a]nd [p]roceed [p]ro se," requesting that he "be allowed to dismiss his counsel [and] then immediately file a '[p]ro [s]e' [f]ourth [a]mended [c]omplaint due to the possibility of [the third amended complaint] being dismissed . . . 'with prejudice,' thus closing the door for good on [his] claims[.]" Not waiting for permission, James filed his fourth amended complaint pro se. Separately, James's counsel moved to withdraw from the case. The district court permitted counsel to withdraw and allowed James to proceed pro se.

The defendants then moved to strike the fourth amended complaint, arguing that James failed to seek leave of court or to confer with opposing counsel before filing. James responded that the district court already permitted him to file the fourth amended complaint when it granted his motion and that he was not able to confer with opposing counsel because he was represented by counsel at the time he filed his motion. He also argued that if the district court concluded that he had not properly requested leave to file a fourth amended complaint, the district court should accept his third amended complaint as the operative pleading.

The district court granted the defendants' motion to dismiss the third amended complaint and the motion to strike the fourth amended complaint. The third amended complaint, the district court ruled, was due to be dismissed with prejudice because it was still a shotgun pleading and James had already been given an opportunity to fix the problems. Although the third amended

complaint separated its claims for relief into separate counts, it largely failed to cure the deficiencies the district court previously identified. In any event, the district court explained, the third amended complaint failed to state a claim. As to the fourth amended complaint, James filed it without leave of court and without conferring with opposing counsel, in violation of Federal Rules of Civil Procedure 15(a)(2) and the Southern District of Florida Local Rule 7.1.

STANDARD OF REVIEW

We review a district court's dismissal of a shotgun complaint for abuse of discretion, *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021), and we review de novo the dismissal for failure to state a claim, *Henley v. Payne*, 945 F.3d 1320, 1326 (11th Cir. 2019). We review "[a] district court's decision to grant or deny leave to amend . . . for abuse of discretion." *Forbus v. Sears Roebuck & Co.*, 30 F.3d 1402, 1404 (11th Cir. 1994). We also give great deference to a district court's interpretation of its local rules and review a district court's application of local rules for abuse of discretion. *See Reese v. Herbert*, 527 F.3d 1253, 1267 n.22 (11th Cir. 2008). We liberally construe pro se pleadings. *Mederos v. United States*, 218 F.3d 1252, 1254 (11th Cir. 2000).

DISCUSSION

Third Amended Complaint

James appeals the dismissal of his third amended complaint. But he doesn't argue that the district court abused its discretion by dismissing his complaint as a shotgun pleading or that it erred in

dismissing for failing to state a claim. Instead, James maintains that "he is not able to nor can argue . . . [whether] the [third amended complaint] was another shotgun pleading or not" and therefore "request[s] that [t]his [h]onorable [c]ourt determine such."

By failing to argue, James has abandoned any issue with the dismissal of his third amended complaint. "[T]he law is by now well settled in this Circuit that a legal claim or argument that has not been briefed before the court is deemed abandoned and its merits will not be addressed." *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1330 (11th Cir. 2004). "[A]n appellant's brief must include an argument containing 'appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies.'" *Singh v. U.S. Atty. Gen.*, 561 F.3d 1275, 1278 (11th Cir. 2009) (quoting Fed. R. App. P. 28(a)(9)(A)). "Thus, an appellant's simply stating that an issue exists, without further argument or discussion, constitutes abandonment of that issue and precludes our considering the issue on appeal." *Id.* (citing *Rowe v. Schreiber*, 139 F.3d 1381, 1382 n.1 (11th Cir. 1998)); *see also Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) ("We have long held that an appellant abandons a claim when he either makes only passing references to it or raises it in a perfunctory manner without supporting arguments and authority.").

Put simply, we cannot evaluate arguments that James does not make. And, although we construe pro se appellate briefs liberally, "[t]o 'liberally construe' doesn't mean to make up." *Nalco Co.*

LLC v. Bonday, 142 F.4th 1336, 1341 (11th Cir. 2025). "The 'leniency' provided to pro se litigants 'does not give a court license to serve as de facto counsel for a party, or to rewrite an otherwise deficient pleading.'" *Id.* (quoting *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014)). Thus, "[w]hile we read briefs filed by pro se litigants liberally, issues not briefed on appeal by a pro se litigant are deemed abandoned." *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (citations omitted).

Fourth Amended Complaint

In contrast, James does brief his argument that the district court abused its discretion in striking his fourth amended complaint. But, for two reasons, we disagree.

First, James never sought leave to file his fourth amended complaint as required by rule 15(a)(2). Rule 15(a) provides that a party "may amend its pleading once as a matter of course" so long as no responsive pleading has been filed. Fed. R. Civ. P. 15(a)(1). Otherwise, a party "may amend its pleading only with the opposing party's written consent or the court's leave" which "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a)(2). "A district court is not required to grant a plaintiff leave to amend his complaint sua sponte when the plaintiff, who is represented by counsel, never filed a motion to amend nor requested leave to amend before the district court." *Wagner v. Daewoo Heavy Indus. Am. Corp.*, 314 F.3d 541, 542 (11th Cir. 2002).

Here, James moved to dismiss counsel and proceed pro se and then immediately filed the fourth amended complaint. James's

counsel also filed her own motion to withdraw. The district court granted these two motions, permitting James's counsel to withdraw and James to proceed pro se, but it did not grant him leave to file—or even mention—the fourth amended complaint. Thus, contrary to James's contention that the district court "reversed" itself by striking the fourth amended complaint, the district court never gave him leave to amend.

James alluded to amending his complaint in his motion to proceed pro se. But "[f]iling a motion is the proper method to request leave to amend a complaint." *Long v. Satz*, 181 F.3d 1275, 1278 (11th Cir. 1999). Where a litigant embeds a request for leave to amend in another filing without filing a separate motion, that request is not properly before the district court. *See, e.g.*, *Advance Tr. & Life Escrow Servs., LTA v. Protective Life Ins. Co.*, 93 F.4th 1315, 1336 (11th Cir. 2024). Because James did not have leave to file his fourth amended complaint, the district court did not abuse its discretion in striking it.

There's another reason the district court did not abuse its discretion. Contrary to the local rules, James did not confer with opposing counsel before filing the fourth amended complaint. District courts have the discretion to adopt local rules with the force of law. *See Hollingsworth v. Perry*, 558 U.S. 183, 191 (2010). Local Rule 7.1(a)(2) provides that movants (including pro se parties) must confer with opposing counsel before filing any motion in a civil case, with certain limited exceptions not applicable here. *See* S.D. Fla. Loc. R. 7.1(a)(2) (2024) ("Prior to filing any motion in a civil

case . . . counsel for the movant shall confer . . . with all parties or non-parties who may be affected by the relief sought in the motion . . . ."); *see also* S.D. Fla. Loc. R. 1.1 ("[T]he word 'counsel' shall be construed to apply to a party if that party is proceeding pro se."). Failure to follow this rule "may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction." S.D. Fla. Loc. R. 7.1(a)(2) (2024). James does not dispute that he failed to follow the local rule.

Instead, James argues that he should be excused from compliance either because it was his lawyer's responsibility to confer, or because pro se pleadings should be held to less stringent standards than formal pleadings drafted by lawyers. But James can't have it both ways. Litigants have to follow procedural rules regardless of whether they are represented by counsel or proceeding pro se. Represented parties are accountable for their attorney's acts and omissions. *See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 381 (1993) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 634 (1962)). And "although we are to give liberal construction to the pleadings of pro se litigants, 'we nevertheless have required them to conform to procedural rules.'" *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (quoting *Loren v. Sasser*, 309 F.3d 1296, 1304 (11th Cir. 2002)); *see also McNeil v. United States*, 508 U.S. 106, 113 (1993) ("[W]e have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel."). The district court therefore did not abuse its discretion when it struck James's proposed fourth amended complaint.

AFFIRMED.