NOT FOR PUBLICATION

In the United States Court of Appeals
For the Eleventh Circuit

No. 24-13489
Non-Argument Calendar

SURGRET URANIA DOSS,

Plaintiff-Appellant,

versus

GREGORY P. HOLDER,
as an individual,
MICHAEL R. VICTOR,
Individually,
PAT KENNEDY,
Individually,
JOHN WALTER MCDARBY,
Individually,
CITY OF TAMPA,
a Municipal Corporation, et al.,

Defendants-Appellees,

VINCENT LETO,
in his Individual Capacity, et al.,

Defendants.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:22-cv-00129-CEH-AAS

Before LUCK, LAGOA, and BRASHER, Circuit Judges.

PER CURIAM:

Surgret Doss, proceeding *pro se*, appeals the district court's dismissal of his civil rights lawsuit against numerous defendants. After careful review, we conclude that none of Doss's claims are meritorious, and we affirm the district court's dismissal.

I.

Doss's claims arise out of two related Florida state court proceedings. In the first proceeding, a foreclosure action, Doss filed an application for indigency status. The presiding judge, Judge Holder, concluded that Doss made false statements on the application and referred the matter to state law enforcement. Following an investigation, the Tampa Police Department submitted a Criminal Report Affidavit to the Hillsborough County State Attorney's Office (HCSAO), which charged Doss with felony perjury. Ultimately, in the second proceeding, the felony perjury proceeding, the judge dismissed the charges for insufficient information.

Doss filed a civil rights action under 42 U.S.C. § 1983 against Judge Holder, the law enforcement officers who conducted the investigation, the Sheriff of Hillsborough County, and the City of

Tampa. Doss's operative complaint alleged the following counts: Conspiracy (Count I); Malicious Prosecution (Count II); Failure to Intervene (Count III); Failure to Adequately Train – City of Tampa (Count IV); Failure to Adequately Train – Sheriff of Hillsborough County (Count V); State Law Claim for Malicious Prosecution – Victor (Local Law Enforcement Officer) (Count VI); State Law Claim for Malicious Prosecution – Judge Holder (Count VII); Intentional Infliction of Emotional Distress – Victor (Count VIII); State Law Claim for Respondeat Superior (Count IX); State Law Claim for Negligence – Sheriff of Hillsborough County (Count X); and State Law Claim for Negligent Retention – City of Tampa (Count XI).

All defendants moved to dismiss. The district court dismissed the federal claims pleaded in Counts I through V with prejudice. The district court recounted that it had previously dismissed Counts VII through IX in an earlier order. And the district court declined to exercise supplemental jurisdiction over the remaining state law claims. Doss appealed.

II.

Doss raises seven challenges on appeal. First, he contends that the district court generally failed to liberally construe his pleadings, as we require for *pro se* plaintiffs. Second, he argues that the district court erred in granting Judge Holder judicial immunity. Third, he complains that the district court erred in dismissing his malicious prosecution claim against the law enforcement officer

who filed the Criminal Report Affidavit (Count II) based on a finding that Doss did not sufficiently allege that the officer lacked probable cause. Fourth, he contends that the district court erred in dismissing his claims against Tampa because the city withheld materials from him in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Fifth, he argues that the district court judge erred in failing to recuse herself from the case *sua sponte*. Sixth, he claims that the district court abused its discretion in staying discovery during the adjudication of the defendants' motions to dismiss. And seventh, he contends that the district court erred by overlooking violations of Florida Rule of Judicial Administration 2.505, which he alleges occurred during a separate state court proceeding.

For the following reasons, we reject each of Doss's arguments. Accordingly, we affirm the district court's grant of the defendants' motions to dismiss.

A.

First, Doss alleges that the district court failed to apply the proper pleading standard to his *pro se* complaint. Because the district court applied the proper pleading standard for *pro se* litigants, we reject Doss's challenge.

We review the grant of a motion to dismiss under Rule 12(b)(6) *de novo*, "accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff." *Statton v. Florida Fed. Jud. Nominating Comm'n*, 959 F.3d 1061, 1062 (11th Cir. 2020) (citation modified). "We hold the allegations of a *pro se* complaint to less stringent standards than formal pleadings

drafted by lawyers." *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168 (11th Cir. 2014). In doing so, "we construe [a *pro se* plaintiff's] pleadings liberally." *Id.* "Yet even in the case of *pro se* litigants this 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." *Id.* at 1168–69 (quoting *GJR Invs., Inc. v. County of Escambia, Fla.*, 132 F.3d 1359, 1369 (11th Cir. 1998)).

To survive a motion to dismiss under Rule 12(b)(6), a pleading must include a "short and plain statement of the claim showing that the pleader is entitled to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). Conclusory statements and formulaic recitations of the elements of a cause of action are not sufficient. *Id.* at 678 (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). A complaint must contain sufficient factual matter, which, accepted as true, would "state a claim to relief that is plausible on its face." *Id.* (quoting *Twombly*, 550 U.S. at 570). "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.* The court, however, is not bound to accept as true a legal conclusion stated as a "factual allegation" in the complaint. *Id.*

Here, the district court expressly acknowledged that Doss's pleadings were entitled to liberal construction because he was proceeding *pro se*. The court then evaluated each of Doss's claims under that standard, explaining why the factual allegations pleaded failed to state a plausible claim for relief. Specifically, the district court explained that Doss's conspiracy claim (Count I) rested on

conclusory allegations and was barred by the intra-corporate conspiracy doctrine; that his malicious prosecution claim (Count II) alleged lack of probable cause in a purely conclusory manner; that his failure to intervene claim (Count III) fell outside the limited contexts in which such claims are viable; and that his failure to train claims (Counts IV and V) lacked factual allegations sufficient to support any liability.

On *de novo* review, we conclude that Doss's pleadings fail to state a plausible claim for relief under the liberal pleading standard applicable to *pro se* litigants. *See Campbell*, 760 F.3d at 1168. Outside of conclusory allegations and legal conclusions framed as factual assertions, Doss's pleadings fail to allege facts to overcome Rule 12(b)(6)'s plausibility hurdle. *See Ashcroft*, 556 U.S. at 678. Accordingly, we affirm the district court's application of *Campbell*'s lenient pleading standard. 760 F.3d at 1168.

B.

Second, Doss challenges the district court's determination that Judge Holder is entitled to judicial immunity. Because Judge Holder was acting within his judicial capacity and jurisdiction, we conclude that he is entitled to judicial immunity.

We review *de novo* a district court's grant of judicial immunity. *Stevens v. Osuna*, 877 F.3d 1293, 1301 (11th Cir. 2017). "Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction." *Id.* (quoting *Cleavinger v. Saxner*, 474 U.S. 193, 199 (1985)). Judicial immunity applies "even when the

judge's conduct 'was in error, was done maliciously, or was in excess of his authority.'" *Id.* (quoting *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)). And the doctrine of judicial immunity extends to state court judges. *Id.* at 1302.

To determine whether a judge is entitled to judicial immunity, we apply a two-step inquiry. First, we determine whether he acted within his judicial capacity. *Id.* at 1304. To answer this question, we "consider (1) whether the act is one normally performed by judges, and (2) whether the complaining party was dealing with the judge in his judicial capacity." *Id.* (citing *Stump*, 435 U.S. at 362). Second, we consider whether he acted within "the scope of [his] jurisdiction," which we "construe[] broadly." *Id.* at 1307 (citing *Stump*, 435 U.S. at 356–57).

Applying that framework, we conclude that Judge Holder is entitled to judicial immunity. First, at all relevant times, Judge Holder acted within his judicial capacity. Judge Holder reviewed Doss's application for indigency status in connection with the case over which he was presiding and took reasonable action to preserve the integrity of the proceeding—an act normally performed by judges as part of managing cases before them. *See, e.g.*, *Mullane v. Moreno*, No. 21-13468, 2025 WL 1386666, at *8 (11th Cir. May 14, 2025) (noting the "important function" of judges in maintaining the integrity of the judicial branch by reporting suspected misconduct). And Doss's interactions with Judge Holder arose solely from Judge Holder's role as the presiding judge. Second, Judge Holder acted

within the scope of his jurisdiction. He was presiding over the foreclosure action and had jurisdiction to evaluate filings submitted in that case, including Doss's indigency application.

Because Judge Holder's actions were taken in his judicial capacity and within the scope of his jurisdiction, he is entitled to judicial immunity. *Stevens*, 877 F.3d at 1304, 1307–08. *See also Mullane*, 2025 WL 1386666, at *8 (11th Cir. May 14, 2025). The district court therefore properly dismissed Doss's claims against Judge Holder based on that immunity.

C.

Third, Doss challenges the district court's dismissal of his malicious prosecution claim (Count II) based on its finding that he did not sufficiently allege that the law enforcement officer lacked probable cause.

Again, we review *de novo* the grant of a motion to dismiss under Rule 12(b)(6), accepting all allegations as true and viewing them in the light most favorable to the plaintiff. *Statton*, 959 F.3d at 1062. Even under that standard, however, we do not accept legal conclusions as true, and "threadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice to survive a Rule 12(b)(6) motion." *Turner v. Williams*, 65 F.4th 564, 577 (11th Cir. 2023) (citation modified).

To establish a Fourth Amendment malicious prosecution claim under section 1983, the plaintiff "must prove both a violation of his Fourth Amendment right to be free of unreasonable seizures

and the elements of the common law tort of malicious prosecution." *Williams v. Aguirre*, 965 F.3d 1147, 1157 (11th Cir. 2020) (citation modified). And under the common law elements of malicious prosecution, the plaintiff must show that the officer (1) instituted or continued a criminal prosecution against him, (2) with malice and without probable cause, (3) that terminated in his favor, and (4) caused him damage. *Id.*

Here, we conclude that Doss's complaint fails to plausibly allege a Fourth Amendment malicious prosecution claim against the officer. The facts alleged in the complaint describe nothing more than the ordinary course of a law enforcement investigation: The officer received a tip, investigated the matter, and ultimately filed a Criminal Report Affidavit. Doss's allegations that the officer acted with malice and without probable cause amount to no more than conclusory assertions—"threadbare recitals of the elements of a cause of action." *Turner*, 65 F.4th at 577. Accordingly, because Doss failed to plausibly allege any facts to support his malicious prosecution claim, we affirm the district court's dismissal of Count II under Rule 12(b)(6).

D.

Fourth, Doss challenges the district court's dismissal of his claims against the City of Tampa. He argues that because Tampa allegedly withheld materials from him in violation of *Brady* during the perjury proceedings, the district court erred by dismissing his claims against the city without addressing that alleged *Brady* violation.

Doss's argument fails for a straightforward reason: He did not plead any cause of action against Tampa for a violation of his rights under *Brady*. Accordingly, the district court did not err by declining to address Doss's alleged *Brady* violation. *See Miccosukee Tribe of Indians of Fla. v. United States*, 716 F.3d 535, 559 (11th Cir. 2013) (explaining that a district court's review is confined to the claims raised in the complaint).

Doss named Tampa as a defendant in only two counts. In Count IV, he alleged a failure to train claim based on Tampa's purported failure to train its police officer "regarding methods for investigating felony perjury in an official proceeding and writing accurate police reports." And in Count XI, he asserted a state law claim for negligent retention of the officers whom he alleged filed the perjury Criminal Report Affidavit without probable cause. Neither of these claims alleges—or even depends on—a due process violation under *Brady*. Accordingly, because Doss never pleaded a *Brady* claim against Tampa, the district court was neither required nor allowed to address Doss's *Brady* theory. *See Miccosukee Tribe of Indians*, 716 F.3d at 559.

E.

Fifth, Doss claims that the district court judge erred by failing to recuse herself from the case *sua sponte*. He argues that the district judge was conflicted because she previously served as the Chief Judge of the Thirteenth Judicial Circuit of Florida—the same circuit in which Judge Holder serves. He claims that her "professional and institutional ties" to Judge Holder would raise "likely"

and "reasonable" doubts about her impartiality. But because the district court's alleged "professional and institutional ties" to Judge Holder do not raise significant doubts as to her impartiality, we reject Doss's argument.

When a party does not request that a district court judge recuse herself, we review that judge's decision not to recuse for plain error. *Hamm v. Members of Bd. of Regents of Fla.*, 708 F.2d 647, 651 (11th Cir. 1983).

There are "[t]wo statutes [that] govern the recusal of a federal district judge." *Id.* The first, 28 U.S.C. § 144, applies when a party "files a timely and technically correct affidavit and motion alleging the judge before whom the matter is pending is personally biased or prejudiced against him or in favor of an adverse party." *Id.* The second, 28 U.S.C. § 455, states the "general rule that a judge shall 'disqualify himself in any proceeding in which his impartiality might reasonably be questioned.'" *Id.* (quoting 28 U.S.C. § 455(a)).

Section 455(a) requires retroactive recusal only when "an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." *Curves, LLC v. Spalding County*, 685 F.3d 1284, 1287 (11th Cir. 2012) (quoting *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000)) (declining to require retroactive recusal when it was revealed that the district court judge who ruled on the defendant's motion to dismiss frequented similar dancing clubs as the plaintiff business around the time he ruled on the motion). Further, the fact that a district court judge's

rulings are reviewed *de novo* on appeal undercuts a party's argument for retroactive recusal because any partiality can be "cured by our fresh review." *Id.* at 1288.

Here, Doss has not demonstrated the need for retroactive recusal. Doss never asked the district court judge to recuse herself, even though the case remained pending in her court for two years. And his new-on-appeal allegations against the district court judge—that she served as the Chief Judge of the same state judicial circuit that Judge Holder served on for some undefined overlapping period in the past—would not make "an objective, fully informed lay observer" harbor any "significant doubt" about her impartiality. *Id.* at 1287. We decline to require retroactive recusal.

F.

Sixth, Doss contends that the district court erred by staying discovery while adjudicating the defendants' motions to dismiss. "We review a district court's decision to stay discovery for an abuse of discretion." *Isaiah v. JPMorgan Chase Bank*, 960 F.3d 1296, 1308 (11th Cir. 2020). In this context, "[a] district court abuses its discretion if it applies an incorrect legal standard, applies the law in an unreasonable or incorrect manner, or follows improper procedures in making its decision." *Id.*

Generally, Rule 12(b)(6) motions to dismiss "should . . . be resolved before discovery begins." *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997). A "facial challenge to the legal sufficiency of a claim," such as a motion to dismiss for

failure to state a claim, "raises only questions of law." *World Holdings, LLC v. Fed. Republic of Germany*, 701 F.3d 641, 655 (11th Cir. 2012). As such, "neither the parties nor the court have any need for discovery before the court rules on the motion." *Id.* (quoting *Chudasama*, 123 F.3d at 1367).

Here, the district court did not abuse its discretion in granting Judge Holder's motion to stay discovery pending the resolution of the motions to dismiss. The motions to dismiss were facial challenges to the legal sufficiency of Doss's claims and did not require any record evidence to resolve. *World Holdings*, 701 F.3d at 655. Accordingly, Doss had no need for discovery pending the motions' resolutions; the district court did not abuse its discretion in staying discovery. *Isaiah*, 960 F.3d at 1308.

G.

Finally, Doss argues that the district court erred by "fail[ing] to recognize and address" violations of Florida Rule of Judicial Administration 2.505 that occurred during the original state court foreclosure proceeding when one of the parties failed to properly file a change of counsel form with the court.

This argument fails because it is inapplicable to any of Doss's claims in this federal case. The fact that a party—not party to this lawsuit—may not have followed the formal procedures to substitute its counsel in an unrelated state court proceeding has no effect on Doss's civil rights claims in this federal action. The district court did not err in not considering this claim.

III.

AFFIRMED.