

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10574
Non-Argument Calendar

MONIQUE MAYBELL,
GREGG HARDEN,

Plaintiffs-Appellants,

versus

CITY OF WEST PALM BEACH,
CRUISE PROPERTY MANAGEMENT,

Defendants-Appellees,

WEST PALM BEACH POLICE DEPARTMENT,

Defendant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:24-cv-81190-WPD

Before ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

Monique Maybell and Gregg Harden, each proceeding *pro se*, sued the City of West Palm Beach and its police department for claims arising out of police officers' forcible entry into their home. On appeal, they challenge the district court's orders denying their motion for a default judgment and dismissing the action for failure to comply with a court order. After careful consideration, we affirm.

I.

Maybell and Harden, a married couple, alleged that in September 2022 officers with the West Palm Beach Police Department forcibly entered their home. They say that the officers pointed firearms at them, forced Maybell to answer their questions, and arrested Harden and detained him for more than two weeks.

About two years later, Maybell and Harden filed a *pro se* lawsuit in the Southern District of Florida in which they asserted claims arising out of the September 2022 incident. In this first lawsuit, which was assigned case number 9:24-cv-81122 in the district court, Maybell and Harden filed a 70-page complaint and named as defendants the City of West Palm Beach; the West Palm Beach Police Department; Cruise Property Management, which was Maybell and Harden's landlord; and 12 individuals. Both Maybell and Harden sought leave to proceed *in forma pauperis*.

Because Maybell and Harden sought leave to proceed *in forma pauperis*, the district court reviewed their complaint to determine whether it stated a claim for relief. *See* 28 U.S.C.

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§ 1915(e)(2)(b)(ii). It concluded the complaint was a shotgun pleading because it was “extraordinarily lengthy and inordinately confusing, while sparse on facts, leaving the Court and Defendants to speculate what factual allegations might support each claim against each Defendant.” *Maybell I*, Doc. 6 at 2.¹ According to the court, the complaint also was “replete with legal conclusions unsupported by and unconnected to factual allegations.” *Id.* at 3. Further, the district court noted, the complaint included “no factual allegations pled against many of the Defendants . . . listed in the case caption.” *Id.* at 2 n.1. The court dismissed the complaint without prejudice and instructed Maybell and Harden that if they wished to file an amended complaint, they must file it under a new case number.

Still proceeding *pro se*, Maybell and Harden filed a second lawsuit in the Southern District of Florida, alleging claims arising out of the same incident. In this second lawsuit, which was assigned case number 9:24-cv-81190, they brought claims under 42 U.S.C. § 1983 against the City of West Palm Beach and the West Palm Beach Police Department. They explained that this filing was an amended complaint pursuant to the court’s order in *Maybell I*.

¹ “*Maybell I*, Doc.” numbers refer to the district court’s docket entries in the first lawsuit Maybell and Harden filed in the Southern District of Florida, which was assigned case number 9:24-cv-81122.

“*Maybell II*, Doc.” numbers refer to the district court docket entries in the second lawsuit Maybell and Harden filed in the Southern District of Florida, which was assigned case number 9:24-cv-81190.

After Maybell and Harden filed the amended complaint, the district court allowed them to proceed *in forma pauperis*. It ordered the United States Marshals Service to serve the amended complaint and a summons on each defendant. On October 30, the United States Marshals Service received the documents to be served. On November 5, it served the City of West Palm Beach and the West Palm Beach Police Department. As a result, each defendant's response to the amended complaint was due 21 days later, by November 26. *See* Fed. R. Civ. P. 12(a)(1)(A)(i).

On November 25, one day before the deadline, an attorney for the city filed a motion seeking an extension of time to respond to the amended complaint. He explained that he needed extra time because he had recently been ill and under medical care. He asked the court for a two-week extension. The district court granted the motion, giving the city until December 4 to respond to the amended complaint.

On November 27, before the deadline for the city's response to the amended complaint, the city filed a motion to dismiss. It argued that the amended complaint should be dismissed for several reasons, including because it was a shotgun pleading. The city also argued that the claims against the police department should be dismissed because the department was "not a proper defendant" as it did "not have the capacity to sue [or] be sued." *Maybell II*, Doc. 22 at 3.

Around the same time, Maybell and Harden filed a motion seeking an entry of default. *See* Fed. R. Civ. P. 55(a). They argued

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that each defendant had failed to file a timely response to the amended complaint and thus the clerk should enter a default against each defendant. The clerk entered a default against the police department but not against the city.

The city quickly filed a motion to vacate the entry of default against the police department. The city explained that it had filed a motion to dismiss and again pointed out that the police department was not a proper defendant. The next day, the district court granted the city's motion and vacated the clerk's entry of default against the police department.

About two weeks later, Maybell and Harden filed a motion requesting that the court enter a default against both the city and the police department for failing to respond to the amended complaint. They further requested that the district court issue a default judgment and award them more than \$30 billion in compensatory and punitive damages.

On the same day, Maybell and Harden also filed a second amended complaint. In this pleading, they sought to assert claims against the city, the police department, and more than 20 other defendants. They asserted claims under § 1983 and state law arising out of the September 2022 incident. They further alleged that their landlord, Cruise Property Management, was liable because it had failed to prevent the unauthorized police entry. The new defendants that Maybell and Harden sought to add to the case included Cruise Property Management, the individual who owned Cruise Property Management, various current and former city officials,

five members of the city council, and members of the city's legal team.

The district court granted the city's motion to dismiss the first amended complaint to the extent that the motion sought to strike the police department as a defendant. It denied the remainder of the motion as moot because Maybell and Harden had filed a second amended complaint. It allowed Maybell and Harden to proceed under the second amended complaint as to the city only. But it denied their motion to add new defendants to the case. The court explained that Maybell and Harden failed to provide any "explanation and/or allegations as to why any of these defendants should or could be properly added to this case." *Maybell II*, Doc. 36 at 2. And it determined that any claim against Cruise Property Management or its owner arising from their failure to prevent the police from entering Maybell and Harden's home was "wholly frivolous." *Id.* at 3. The court then ordered the city to respond to the second amended complaint.

In a separate order issued the same day, the court denied Maybell and Harden's motion for a default judgment. It explained that it had previously vacated the entry of default against the police department and determined there was "no legal or factual basis for entering default judgment against any Defendant in this case." *Maybell II*, Doc. 38 at 1.

The city moved to dismiss the second amended complaint. It argued that the second amended complaint was a shotgun pleading that was "replete with conclusory, vague, and immaterial facts

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not obviously connected to any particular cause of action.” *Maybell II*, Doc. 42 at 2 (citation modified). The city also argued that the second amended complaint failed to state a claim under § 1983 because it did not allege sufficient factual matter to support an inference that any constitutional violation occurred pursuant to a policy or custom of the city. The city asserted that the second amended complaint, at most, included a conclusory allegation that the city had failed to adequately train and supervise police officers. But the city argued that this conclusory allegation was insufficient to state a claim.

Under the district court’s local rules, Maybell and Harden had 14 days to respond to the motion to dismiss. *See* S.D. Fla. L.R. 7.1(c)(1). The local rules state that if a party fails to timely file an opposition to a motion, the failure “may be deemed sufficient cause for granting the motion by default.” *Id.* Maybell and Harden failed to file a response to the motion to dismiss. After the deadline for their response passed, the district court entered an order directing them to show cause why the city’s motion to dismiss should not be granted. It warned that “[a] failure to timely respond may result in the Court granting the Motion.” *Maybell II*, Doc. 48 at 1.

Maybell and Harden filed no response to the show cause order. Because they failed to respond to the order, the court dismissed the case and ordered it closed. This is Maybell and Harden’s appeal.

II.

We review the denial of a motion for default judgment for abuse of discretion. *Hamm v. DeKalb Cnty.*, 774 F.2d 1567, 1576 (11th Cir. 1985). We also review for abuse of discretion a district court’s dismissal of an action for failure to comply with a court order. *See Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313, 1321 n.10 (11th Cir. 2015). “Discretion means the district court has a range of choice, and that its decision will not be disturbed as long as it stays within that range and is not influenced by any mistake of law.” *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d 1333, 1337 (11th Cir. 2005) (citation modified).

Pro se filings are liberally construed. *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168 (11th Cir. 2014).

III.

We liberally construe Maybell and Harden’s appellate briefs as raising two primary issues on appeal: (1) whether the district court erred in denying their motion for a default judgment against the city and the police department and (2) whether the district court erred in dismissing the second amended complaint against the city. We address each issue in turn.

A.

On appeal, Maybell and Harden argue that the district court erred when it denied their motion for a default judgment. We conclude that the district court did not abuse its discretion in denying their motion.

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The Federal Rules of Civil Procedure set forth a two-step process for a plaintiff to obtain a default judgment. First, the clerk must enter a default “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P. 55(a). Second, after the clerk’s entry of default, the plaintiff must seek a default judgment. “If the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation,” the plaintiff seeks the default judgment from the clerk. Fed. R. Civ. P. 55(b)(1). But in all other cases, the plaintiff “must apply to the court for a default judgment.” Fed. R. Civ. P. 55(b)(2). We have recognized that there is a “strong policy of determining cases on their merits” and, therefore, “default judgments are generally disfavored.” *Surtain v. Hamlin Terrace Found.*, 789 F.3d 1239, 1244–45 (11th Cir. 2015) (citation modified). A default judgment is warranted only “when there is a sufficient basis in the pleadings for the judgment entered.” *Id.* at 1245 (citation modified).

We cannot say that the district court abused its discretion in denying the motion for a default judgment in this case. As to the city, the clerk properly denied Maybell and Harden’s request for entry of a default because, at the time they sought the entry of default, the deadline for the city to respond to the first amended complaint had not yet run.² See Fed. R. Civ. P. 55(a). And because there

² In their appellate briefs, Maybell and Harden repeatedly assert that the city did not file its motion to extend the deadline for its response to the amended complaint until after that deadline had passed. They say that the city was served with the summons and amended complaint on October 30 and thus its

was no entry of default against the city, it follows that the district court did not abuse its discretion in denying the motion for a default judgment against the city.

As to the police department, it is true that Maybell and Harden initially obtained a clerk's entry of default. But the district court did not abuse its discretion in setting aside the entry of default. *See* Fed. R. Civ. P. 55(c) (providing that a court "may set aside an entry of default for good cause"). A court has good cause to set

response was due on November 20. But the record shows otherwise. The filings related to service of process show that the United States Marshals Service received the summons and amended complaint on October 30 but did not complete service on the city until November 5. Because the city was served on November 5, its response to the first amended complaint was due on November 26. As a result, when the city filed its motion seeking an extension on November 25, the deadline had not yet passed.

On appeal, Maybell and Harden argue that the district court erred in granting the city's motion to extend the deadline for its response to the first amended complaint. But we cannot say that the district court abused its discretion in granting an extension given that the city's attorney had been sick and under medical care. *See* Fed. R. Civ. P. 6(b)(1)(A) (providing that a court may extend a deadline upon a showing of "good cause" if the request for an extension is made before the deadline expires).

But even assuming Maybell and Harden are correct that the city was served on October 30 and did not seek an extension of the deadline to file its response to the amended complaint until after the deadline for its response had passed, we still see no error. The district court did not abuse its discretion in concluding that, given the city attorney's illness, the city was entitled to a short extension of the deadline for its response under an excusable neglect standard. *See* Fed. R. Civ. P. 6(b)(1)(B) (providing that a court may extend a deadline upon a showing of both "good cause" and "excusable neglect" if the request for an extension is made after the deadline expires).

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aside a default when “the defaulting party presents a meritorious defense.” *Compania Interamericana Exp.-Imp., S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948, 951 (11th Cir. 1996).

Here, the district court had good cause to set aside the entry of default against the police department because there was a meritorious defense: the department lacked the capacity to be sued. The question of whether a police department has the capacity to be sued is determined by the law of the relevant state. *See Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992). And under Florida law, a police department does not have the capacity to be sued. *See Fla. City Police Dep’t v. Corcoran*, 661 So. 2d 409, 410 (Fla. Dist. Ct. App. 1995). Given that the police department lacked the capacity to be sued, the district court did not abuse its discretion in vacating the entry of default or denying the motion for a default judgment against the department.

B.

We now turn to the second issue in this appeal: whether the district court abused its discretion when it dismissed the action against the city after Maybell and Harden failed to respond to the motion to dismiss and the court’s show cause order.

A district court may dismiss a case for failure to comply with a court order “under the authority of either [Federal Rule of Civil Procedure] 41(b) or the court’s inherent power to manage its docket.” *Weiland*, 792 F.3d at 1321 n.10. Rule 41(b) permits a district court to dismiss an action if the “plaintiff fails to prosecute or to comply with [the Federal Rules of Civil Procedure] or a court

order.” Fed. R. Civ. P. 41(b). Unless the dismissal order states otherwise, a dismissal under Rule 41(b) operates as a dismissal with prejudice. *Id.* To dismiss an action with prejudice under Rule 41(b), a district court must find that (1) “a party engage[d] in a clear pattern of delay or willful [conduct]” and (2) “lesser sanctions would not suffice.” *Betty K Agencies*, 432 F.3d at 1337–38 (citation modified).

A district court also possesses inherent authority to dismiss an action when a party fails to comply with a court order. As the Supreme Court has recognized, “a district court possesses inherent powers that are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) (citation modified). We have explained that a district court has “inherent authority to control its docket and ensure the prompt resolution of lawsuits, which in some circumstances includes the power to dismiss a complaint” for failure to comply with the Federal Rules of Civil Procedure or a court order. *Weiland*, 792 F.3d at 1320.

Here, the district court did not specify whether its dismissal was pursuant to Rule 41(b) or its inherent authority. Because the district court’s dismissal order did “not cite Rule 41(b)” or “make the findings necessary to justify a dismissal [with prejudice] under that provision,” we conclude that it did not dismiss the action under Rule 41(b) and instead acted pursuant to its inherent authority

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to manage its docket and that the dismissal was done without prejudice. *See id.* at 1319–20.

The district court did not abuse its discretion when it dismissed the action without prejudice pursuant to its inherent authority.³ After Maybell and Harden failed to file a response to the city’s motion to dismiss the second amended complaint, the court ordered them to show cause why the motion to dismiss should not be granted. It further warned them that failing to respond could result in the action’s dismissal. Because they filed no response to the show cause order and thus failed to comply with a court order, the district court had the discretion to dismiss the action without prejudice for failure to comply. *See Dynes v. Army Air Force Exch. Serv.*, 720 F.2d 1495, 1499 (11th Cir. 1983) (holding district court did not abuse its discretion when it dismissed a case without prejudice after a party failed to comply with a single court order).

³ When “a dismissal without prejudice has the effect of precluding a plaintiff from refileing his claim due to the running of the statute of limitations, the dismissal is tantamount to a dismissal with prejudice, a drastic remedy to be used only in those situations where a lesser sanction would not better serve the interests of justice.” *Mickles v. Country Club Inc.*, 887 F.3d 1270, 1280 (11th Cir. 2018) (citation modified). Here, because the limitations period that applies to Maybell and Harden’s § 1983 claims against the city has not yet run, we are not required to treat the dismissal as tantamount to a dismissal with prejudice. *See McGroarty v. Swearingen*, 977 F.3d 1302, 1307 (11th Cir. 2020) (recognizing that a plaintiff must commence a § 1983 claim arising in Florida within four years of the allegedly unconstitutional or otherwise illegal act).

IV.

For the reasons set forth above, we affirm the district court.

AFFIRMED.