

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11432
Non-Argument Calendar

AREBE TAYLOR,

Plaintiff-Appellant,

versus

BOARD OF REGENTS OF THE UNIVERSITY
SYSTEM OF GEORGIA,

d.b.a. The University of Georgia, et al.,

Defendants,

DR. STUART FELDMAN,

DR. BRITTANI L. HARMON,

individually,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:20-cv-05048-SEG

Before JORDAN, LUCK, and KIDD, Circuit Judges.

PER CURIAM:

Arebe Taylor was dismissed from a doctoral program at the University of Georgia after he twice failed his comprehensive exams. Taylor, who is black and originally from Sierra Leone, sued the university's Board of Regents and two professors from his program challenging his dismissal. He brought a racial and national origin discrimination claim against the board under Title VI of the Civil Rights Act of 1964, a procedural due process claim against the professors under 42 U.S.C. section 1983, and a racial discrimination claim against the professors under 42 U.S.C. section 1981. Taylor appeals the district court's dismissal of his Title VI and procedural due process claims and its summary judgment for the professors on his section 1981 claim. After careful consideration, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Taylor was enrolled in the Doctor of Public Health program at the University of Georgia. To graduate, students were required to pass a comprehensive exam. Absent extenuating circumstances, a student who failed the exam twice was to be dismissed from the program.

Taylor failed the exam on his first try. A few months later, he tried again. On his second attempt, the professor grading the exam ran Taylor's answers through plagiarism-detection software, which showed that Taylor had plagiarized "quite a bit" in one of his answers.

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Dr. Brittani Harmon, an assistant professor in the program, referred Taylor to an academic disciplinary panel. After a hearing, the panel found that “it [wa]s more likely than not” that Taylor violated the university’s academic honesty policy. The panel ordered that Taylor “receive either a [zero] or the lowest possible grade” on the exam. Harmon gave Taylor a zero on the exam. Because Taylor had now failed the exam twice, Harmon and the interim head of the program, Dr. Stuart Feldman, dismissed him from the program.

Taylor filed a lawsuit against the board, Harmon, and Feldman. Three claims are relevant on appeal. First, he alleged that the board violated Title VI of the Civil Rights Act of 1964 by discriminating against him on the basis of race and national origin in connection with his dismissal. Second, he claimed that Harmon and Feldman violated his right to procedural due process under 28 U.S.C. section 1983 by failing to provide him with adequate notice or an opportunity to be heard before the disciplinary panel lowered his exam grade. Finally, he alleged that Harmon and Feldman discriminated against him on the basis of race under 28 U.S.C. section 1981 by dismissing him from the program.

The board, Harmon, and Feldman moved to dismiss Taylor’s complaint. The district court concluded that Taylor failed to state a claim against the board under Title VI because he did not identify any discriminatory policy of the board responsible for his dismissal and did not allege that the board “had anything at all to do with the way [Taylor’s]” disciplinary process was conducted.

Moving on to the procedural due process claim, the district court ruled that Harmon and Feldman were entitled to qualified immunity because Taylor could not show he had a “clearly established protectible property interest in his [] exam grade.” But, the district court explained, Taylor had adequately pleaded that Harmon and Feldman violated clearly established law by dismissing him on the basis of race, so they were not entitled to qualified immunity on Taylor’s section 1981 claim. Thus, the district court dismissed the Title VI and procedural due process claims, but allowed Taylor to proceed on his section 1981 claim against Harmon and Feldman.

After discovery, Harmon and Feldman moved for summary judgment on the remaining section 1981 claim. The district court granted summary judgment for Harmon and Feldman because Taylor failed to establish a prima facie case of discrimination and he did not identify any “circumstantial evidence that would allow a jury to infer intentional discrimination by Feldman and Harmon.”

Taylor appeals the dismissal and the summary judgment.

STANDARD OF REVIEW

We review de novo a dismissal for failure to state a claim, “accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff.” *Ironworkers Loc. Union 68 v. AstraZeneca Pharm., LP*, 634 F.3d 1352, 1359 (11th Cir. 2011) (citation modified). We review de novo a determination that an official is entitled to qualified immunity on a motion to dismiss. See *Jackson v. City of Atlanta*, 97 F.4th 1343, 1350 (11th Cir. 2024).

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And we review de novo a district court’s summary judgment, “viewing the evidence and drawing all inferences in the light most favorable to the non-moving party.” *Am. Builders Ins. Co. v. S.-Owners Ins. Co.*, 71 F.4th 847, 854 (11th Cir. 2023).

DISCUSSION

Our discussion proceeds in three parts. First, we’ll discuss the district court’s dismissal of Taylor’s Title VI claim against the board. Then, we’ll examine the district court’s grant of qualified immunity to Harmon and Feldman on Taylor’s procedural due process claim. And finally, we’ll turn to the district court’s grant of summary judgment to Harmon and Feldman on Taylor’s section 1981 claim.

A. Title VI Discrimination Claim Against the Board

Taylor first challenges the district court’s dismissal of his Title VI claim against the board. Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving [f]ederal financial assistance.” 42 U.S.C. § 2000d. “To establish that a defendant is liable under Title VI . . . a plaintiff must prove discriminatory intent.” *Adams v. Demopolis City Schs.*, 80 F.4th 1259, 1273 (11th Cir. 2023); *see also Alexander v. Choate*, 469 U.S. 287, 293 (1985) (“Title VI itself directly reach[es] only instances of intentional discrimination.”).

“Vicarious liability is unavailable under Title VI.” *Ingram v. Kubik*, 30 F.4th 1241, 1258 (11th Cir. 2022), *abrogated on other grounds by Case v. Montana*, 607 U.S. 107 (2026); *see also Shotz v. City of Plantation*, 344 F.3d 1161, 1171 (11th Cir. 2003) (noting that only “the entity . . . receiving the financial assistance” may be held liable under Title VI). Thus, to prevail on a Title VI claim against a governmental entity, the plaintiff must show that the entity had “notice that it will be liable for noncompliance” by demonstrating that the alleged discrimination was caused by either (1) an “official policy of the [governmental] entity,” or (2) “an official who at a minimum has authority to address the alleged discrimination and to institute corrective measures [who] ha[d] actual knowledge of the discrimination and fail[ed] to adequately respond.” *Ingram*, 30 F.4th at 1258 (quoting *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 290 (1998)). The official must be “high enough up the chain-of-command that [their] acts constitute an official decision by the [board] not to remedy the misconduct.” *Liese v. Indian River Cnty. Hosp. District*, 701 F.3d 334, 350 (11th Cir. 2012).

As the district court explained, Taylor did not identify any discriminatory policy of the board responsible for his dismissal. Nor did his Title VI claim point to any action by an official with “authority to address the alleged discrimination and to institute corrective measures on the [board’s] behalf” who had “actual knowledge of discrimination in the [board’s] programs and fail[ed] adequately to respond.” *Ingram*, 30 F.4th at 1259. The only officials he mentioned in his Title VI claim were Harmon and Feldman, but there was no indication that they had any authority to act “on the

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[board’s] behalf.” *Id.* Neither were “high enough up the chain-of-command that [their] acts constitute an official decision by the [board] not to remedy the misconduct,” as required by Title VI. *See Liese*, 701 F.3d at 350.

On appeal, Taylor points to five additional university officials—including the university president and various other high-level administrators—who he says were responsible for the “intentional discrimination pl[eaded] by [Taylor] and outlined by the [d]istrict [c]ourt.” But Harmon’s complaint never actually ties any of these other officials’ actions to the facts underlying his Title VI claim, nor does he explain how they are related on appeal. Taylor therefore failed to allege any basis for holding the board liable under Title VI.

B. Section 1983 Procedural Due Process Claim Against Harmon and Feldman

Next, Taylor challenges the district court’s conclusion that qualified immunity shielded Harmon and Feldman from his procedural due process claim under section 1983. Government officials “are entitled to qualified immunity under [section] 1983 unless (1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was clearly established at the time.” *District of Columbia v. Wesby*, 583 U.S. 48, 62–63 (2018) (citation modified). Courts are “permitted to exercise their sound discretion in deciding which of the two prongs of the qualified immunity analysis should be addressed first.” *Pearson v. Callahan*, 555 U.S. 223, 236 (2009).

Taylor failed to show that Harmon and Feldman violated a clearly established right. For a right to be clearly established, it must be “sufficiently clear that every reasonable official would understand that what he is doing is unlawful.” *Wesby*, 583 U.S. at 63, (citation modified). “This inquiry is an objective one, and depends on whether an official had ‘fair warning’ that his conduct was unlawful.” *Foster v. Echols Cnty. Sch. Dist.*, 169 F.4th 1291, 1297 (11th Cir. 2026) (quoting *Coffin v. Brandau*, 642 F.3d 999, 1013 (11th Cir. 2011) (en banc)).

We generally recognize three ways a plaintiff can make that showing: (1) “case law with indistinguishable facts clearly establishing the constitutional right,” (2) “a broad statement of principle within the Constitution, statute, or case law that clearly establishes a constitutional right,” or (3) “conduct so egregious that a constitutional right was clearly violated, even in the total absence of case law.” *Gilmore v. Ga. Dep’t of Corr.*, 144 F.4th 1246, 1258 (11th Cir. 2025) (en banc) (citation modified). “Under the third method, a general constitutional rule may apply with obvious clarity to the specific conduct in question, even though the very action in question has not previously been held unlawful.” *Id.* (citation modified).

Here, Taylor’s claim was based on an alleged lack of notice and opportunity to be heard in the disciplinary process that assigned him a failing grade. But it is not clearly established that the Due Process Clause applies to academic grading decisions. The Due Process Clause of the Fourteenth Amendment provides that

no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1. Since life and liberty aren’t at issue here, Taylor had to show that the disciplinary process deprived him of a “protected property interest.” *Woodruff v. U.S. Dep’t of Labor*, 954 F.2d 634, 641 (11th Cir. 1992). The problem for him—as the district court noted—is that neither we nor the Supreme Court have ever held that an academic grade is a “protected property interest,” *id.*, sufficient to trigger due process protections.

On appeal, Taylor does not deny this, but instead contends that he doesn’t need to identify any case law on point because “[i]t was obvious that what [Harmon and Feldman] did to Taylor in preventing his grading/denying his grade violated his rights.” In other words, Taylor argues that this is a case where “a general constitutional rule appl[ies] with obvious clarity to the specific conduct in question, even though the very action in question has not previously been held unlawful.” *Gilmore*, 144 F.4th at 1258 (citation modified). But this case does not fit into that “narrow exception.” *Lee v. Ferraro*, 284 F.3d 1188, 1199 (11th Cir. 2002). “Our case law has made clear that ‘obvious clarity’ cases will be rare.” *Coffin*, 642 F.3d at 1015; *see also Santamorena v. Ga. Mil. Coll.*, 147 F.3d 1337, 1340 n.6 (11th Cir. 1998) (“[T]hese exceptional cases rarely arise”). Failing to provide notice of an academic violation before reducing an exam grade is not the kind of rare case where “every objectively reasonable offic[ial] had to know he was violating the Constitution.” *See Vinyard v. Wilson*, 311 F.3d 1340, 1355 (11th Cir. 2002) (citation modified); *cf., e.g., Bradley v. Benton*, 10 F.4th 1232, 1244 (11th Cir. 2021)

(finding that police shooting a non-dangerous and unarmed fleeing suspect atop an eight-foot wall with a taser was “obviously unconstitutional even absent a case directly on point”).

Because Taylor fails to show that Harmon and Feldman violated any clearly established procedural due process right, Taylor cannot overcome their qualified immunity.

C. Section 1981 Discrimination Claim Against Harmon and Feldman

Finally, Taylor challenges the district court’s summary judgment for Harmon and Feldman on the section 1981 claim. “Section 1981 prohibits intentional race discrimination in the making and enforcement of public and private contracts” *Jenkins v. Nell*, 26 F.4th 1243, 1249 (11th Cir. 2022) (quoting *Ferrill v. Parker Group, Inc.*, 168 F.3d 468, 472 (11th Cir. 1999)); *see also* 42 U.S.C. § 1981 (“[A]ll persons . . . shall have the same right . . . to make and enforce contracts . . . and to the full and equal benefit of all laws . . . as is enjoyed by white citizens.”). A plaintiff can prove a section 1981 claim with “direct evidence, circumstantial evidence, or both.” *Tynes v. Fla. Dep’t of Juv. Just.*, 88 F.4th 939, 944 (11th Cir. 2023) (citing *Jenkins*, 26 F.4th at 1249). Where, as here, the plaintiff did not present any direct evidence, the plaintiff may still prevail on summary judgment by putting forward circumstantial evidence sufficient either to (1) satisfy the burden-shifting framework set forth in *McDonnell Douglas v. Green*, 411 U.S. 792, 800 (1973), or (2) demonstrate a “convincing mosaic” of circumstantial evidence that warrants an inference of intentional discrimination. *See Smith v. Lockheed-Martin Corp.*, 644 F.3d 1321, 1328 (11th Cir. 2011). “As

we have explained,” these two approaches “are two paths to the same destination—the ordinary summary judgment standard.” *McCreight v. Auburn Bank*, 117 F.4th 1322, 1335 (11th Cir. 2024) (citing *Tynes*, 88 F.4th at 943–47).

Under the *McDonnell Douglas* burden-shifting framework, “the plaintiff bears the initial burden of establishing a prima facie case of discrimination by showing” that he (1) belongs to a protected class; (2) was subject to an adverse action; (3) was qualified for the benefit at issue; and (4) was treated less favorably than a similarly situated person outside of the protected class. *See Lewis v. City of Union City*, 918 F.3d 1213, 1220–21 (11th Cir. 2019) (en banc) (citation modified). “If the plaintiff succeeds in making out a prima facie case, the burden shifts to the defendant to articulate a legitimate, nondiscriminatory reason for its actions.” *Id.* at 1221 (citation modified) (citing *Tex. Dep’t of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253 (1981)). If the defendant makes this showing, the burden shifts back to the plaintiff to “demonstrate that the defendant’s proffered reason was merely a pretext for unlawful discrimination, an obligation that ‘merges with the [plaintiff’s] ultimate burden of persuading the [factfinder] that [he] has been the victim of intentional discrimination.’” *Id.* (quoting *Burdine*, 450 U.S. at 256).

Alternatively, a plaintiff can prevail on summary judgment by presenting “circumstantial evidence that creates a triable issue concerning the [defendant’s] discriminatory intent.” *Smith*, 644 F.3d at 1328. “A triable issue of fact exists if the record, viewed in a light most favorable to the plaintiff, presents a convincing mosaic

of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker,” *id.*, which is just a “more poetic” way of saying “enough evidence to allow a jury to infer intentional discrimination,” *McCreight*, 117 F.4th at 1335 (citation modified).

Applying both *McDonnell Douglas* and the convincing mosaic approach, the district court concluded that Taylor’s section 1981 claim failed as a matter of law on summary judgment. Taylor failed to establish a *prima facie* case under *McDonnell Douglas*, the district court explained, because he did not show that he was treated differently than other students “who, like him, faced misconduct allegations or were found to have violated the [u]niversity’s academic honesty policies.” And, the district court concluded, Taylor failed to show a triable issue of fact under the convincing mosaic approach because there was no evidence in the record suggesting that Harmon and Feldman took any action against him because of his race. Indeed, Harmon and Feldman were not even involved in identifying the plagiarism, in grading his first exam, or in the disciplinary panel that required that he be given a grade of zero on his second exam.

Taylor doesn’t challenge any of that on appeal. Rather, he argues that the district court didn’t give as much weight as it should have to an email chain between Harmon and Feldman, which he says demonstrates their discriminatory intent. In the exchange, Taylor emailed Dr. George Khalil—another professor—about his dismissal, asking Khalil to “be the inscrutable instrument of G[-]d

to intercede on my behalf to Dr. Harmon and Dr. Feldman.” Khalil forwarded the email to Harmon and Feldman to confirm that he should not reach out to Taylor. Harmon confirmed that “[s]ince the case is going through appeals it is best to not meet or discuss the process with him.” Feldman responded to Harmon directly with an email stating, in its entirety, “[r]eally troublesome.” Feldman’s use of the word “troublesome,” Taylor says, is “inherently negative” and therefore creates “a reasonable inference of bias based on race here”

But the district court took this exchange into account and correctly assessed that it had “little relevance to the adverse actions taken against [Taylor].” As the district court explained, this exchange took place after Taylor was already dismissed from the program, and although it may have “expressed some frustration with and annoyance towards” Taylor, “there [wa]s no indication those feelings were based on [his] race.” We agree with the district court that this stray expression of annoyance does not raise an inference of racial discrimination here, either alone or in conjunction with the other evidence in this case.

Because Taylor did not present any direct evidence of racial discrimination, failed to establish a *prima facie* case under *McDonnell Douglas*, and did not present a convincing mosaic of circumstantial evidence that would allow an inference of intentional discrimination, the district court correctly granted summary judgment to Harmon and Feldman on Taylor’s section 1981 claim.

CONCLUSION

For these reasons, we affirm the district court's dismissal of Taylor's Title VI claims, and the district court's summary judgment on Taylor's section 1981 claim.

AFFIRMED.