NOT FOR PUBLICATION

In the United States Court of Appeals For the Eleventh Circuit

No. 25-11691
Non-Argument Calendar

JOHN P. CURRY,

Plaintiff-Appellant,

versus

PICKENS COUNTY SHERIFF'S DEPT.,

Defendant,

DEPUTY K. ENGLAND,
DEPUTY A. SIGMAN,
DEPUTY B. TYLER,
DEPUTY T. MUSGROVE,
DETECTIVE M. RICE, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 2:24-cv-00204-SCJ

Before JORDAN, LAGOA, and KIDD, Circuit Judges.

PER CURIAM:

John Curry, proceeding *pro se*, appeals the district court's orders dismissing his 42 U.S.C. § 1983 claims against Sheriff Donnie Craig, Sarah Owensby, Wendy Wade, and several deputies from the Pickens County Sheriff's Department. For the reasons discussed below, we affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

On September 4, 2024, Curry filed a *pro se* complaint against the Pickens County Sheriff's Department ("PCSD"), Sarah Owensby, Wendy Wade, and several deputies of the department, alleging a violation of his Fourth Amendment rights under 42 U.S.C. § 1983 for false arrest and/or malicious prosecution. The complaint alleged that Owensby and Wade provided a false address to the PCSD deputies in order to have him arrested in violation of his Fourth Amendment rights. The complaint also alleged that the defendants "conspired" and issued the unlawful warrant for his arrest, in violation of 18 U.S.C. § 371.

The PCSD defendants filed a motion to dismiss, arguing that Curry's complaint was subject to dismissal for failure to state a claim as well as under the statute of limitations. Curry then filed

an amended complaint, adding Sheriff Donnie Craig as a defendant. The amended complaint alleged the same underlying unlawful arrest based on the false address but also included reference to Sheriff Craig supervising the allegedly unlawful acts of the deputies.

Sheriff Craig, Owensby, and the PCSD deputies filed motions to dismiss the amended complaint, arguing that Curry's § 1983 claim was time-barred by the two-year statute of limitations for civil rights claims in Georgia and that Curry's § 371 conspiracy claim was improperly plead because there is no private right of action under a criminal statute. Owensby also argued that Curry's complaint failed to allege that she acted under "color of state law." Wade also filed a motion to dismiss, arguing insufficient service of process because the process server placed the summons and complaint in a flowerpot on her porch without informing her. Wade failed to file a responsive pleading within 21 days of the alleged service and Curry moved for default judgment accordingly.

As to the two-year statute of limitations, Curry argued that the time began to run on civil rights claims only when the injured party became aware of the injury. Curry thus contended that the period began to run on April 17, 2024, when (1) he deposed one of the PCSD deputies in state court litigation and the deputy testified that she knew the address on the warrant was incorrect, and (2) he obtained open records from PCSD showing the Wade and Owensby were told that the various charges against Curry would not be pursued.

The district court granted Owensby's, Sheriff Craig's, and the PCSD deputies' motions to dismiss, finding that the two-year statute of limitations for civil rights claims had begun to run on the date of Curry's unlawful arrest, March 19, 2020. As a result of this determination, the district court concluded that the § 1983 claims against the defendants were time-barred. As to Wade, the district court ruled that the default judgment was inappropriate regardless of whether service of process was properly effectuated because the amended complaint failed to state a claim for relief.

Curry filed a motion for reconsideration, reiterating his argument that the two-year statute of limitations did not begin to run until he actually learned of the conspiracy surrounding his wrongful arrest from the deposition and open records. Curry also clarified that he never intended to bring a claim under 18 U.S.C. § 371, invoking 18 U.S.C. § 1985 instead. The district court denied his motion, finding that Curry had presented no newly discovered evidence, intervening changes in controlling law, or clear errors of law or fact and observing that 18 U.S.C. § 1985 did not exist. This timely appeal ensued.

II. STANDARD OF REVIEW

We "review de novo the district court's grant of a motion to dismiss under Fed. R. Civ. Pro. 12(b)(6) for failure to state a claim, accepting the factual allegations in the complaint as true and construing them in the light most favorable to the plaintiff. We independently review the district court's ruling concerning the applicable statute of limitations." *McGroarty v. Swearingen*, 977 F.3d 1302,

1306 (11th Cir. 2020) (quotation and citation omitted). "We review the denial of motion for reconsideration for an abuse of discretion." *Richardson v. Johnson*, 598 F.3d 734, 740 (11th Cir. 2010).

III. DISCUSSION

On appeal, Curry reiterates that the statute of limitations did not begin to run until April 17, 2024, when he obtained evidence of the alleged conspiracy. He also raises several new theories for the first time on appeal, arguing that the fraudulent concealment and continuing violation doctrines should apply, invoking 42 U.S.C. § 1985, and claiming that all the defendants violated 18 U.S.C. § 371. In his reply brief, he argues for the first time that even if this Court deems his arguments waived, the waiver must be excused to prevent manifest injustice. He cites no authority in his briefing.

Pro se filings are held to a less stringent standard than pleadings drafted by attorneys and will thus be liberally construed. *Hughes v. Lott*, 350 F.3d 1157, 1160 (11th Cir. 2003). Nevertheless, while we read pro se briefs 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). When a claim is only referenced in passing or raised in a perfunctory manner without supporting arguments and authority, it is abandoned. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014). This Court does not serve as de facto counsel for a party or rewrite an otherwise deficient pleading in order to sustain the action. *Campbell v. Air Jam., Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014). An issue not raised in the district court and raised for the first time on appeal will not be

considered. *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1331 (11th Cir. 2004). Similarly, we will not consider an issue raised for the first time in a reply brief. *M.H. ex rel. C.H. v. Omegle.com LLC*, 122 F.4th 1266, 1270 n.1 (11th Cir. 2024).

Here, we conclude that Curry has abandoned all issues he appealed because he raises them only in a perfunctory manner without supporting authority. His initial brief simply states his claims for relief without any reference to the district court's actions and contains no citation to case law. To the extent that Curry articulates an error in the district court's statute of limitations finding, he does nothing more than assert that April 17, 2024, is the proper day to begin the clock. Thus, even if he has raised the issue, he does so in a perfunctory manner without supporting arguments or authority, rendering the issue abandoned. *Sapuppo*, 739 F.3d at 681.

Similarly, to the extent that Curry articulates an error below based on 42 U.S.C. § 1985 or the fraudulent concealment or continuing violation doctrines, none of those issues were raised at any point before the district court. Thus, those issues are not properly before this Court. *Access Now*, 385 F.3d at 1331. Although Curry asserts that his opening brief contains "37 record citations and 22 authorities, including pinpoint cites to controlling cases," he is incorrect. (Gray Brief at 7). While his initial brief mentions alleged facts and statutes, it does not contain a single citation to the record or caselaw, let alone pin cites to the same. (*See generally* Blue Brief).

Furthermore, to the extent Curry raises the issue of manifest injustice for the first time in his reply brief, that claim is also not

properly before this Court. *Omegle.com*, 122 F.4th at 1270 n.1. Absent any preserved arguments as to the district court's statute of limitations and state actor findings, this Court need not address those issues.[1]

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[1] We note, however that if we reached the merits on those issues the result would still be an affirmance. Federal courts apply their forum state's statute of limitations for § 1983 actions. *Foudy v. Indian River Cnty. Sheriff's Off.*, 845 F.3d 1117, 1123 (11th Cir. 2017). The statute of limitations for a § 1983 claim in Georgia is two years. *Williams v. City of Atlanta*, 794 F.2d 624, 626 (11th Cir. 1986). Fourth Amendment false arrest claims brought under § 1983 accrue when the claimant is detained pursuant to a legal process. *Wallace v. Kato*, 549 U.S. 384, 389–91 (2007). Therefore, the district court did not err in dismissing Curry's § 1983 claims based on a false arrest when he alleged in his complaint that the false arrest occurred on March 19, 2020. (*See* Doc. 10 at 3; Doc. 39 at 4). This is because the statute of limitations for a § 1983 claim arising out of an unlawful arrest on that date expired on March 19, 2022, over two years before he filed the instant case. Despite Curry's insistence that his § 1983 claim accrued when he obtained *evidence* in support of his claim in 2024, he is wrong as a matter of law. (*See* Blue Brief at 3 (citing an unknown Georgia Supreme Court case for the proposition that a § 1983 claim only accrues when the injured party "becomes aware" of the injury)).

The district court's order was also sound as to its state actor findings with regard to the private defendants. (*See* Doc. 39 at 6–8). In order to state a claim under § 1983, a plaintiff must allege a constitutional violation committed by a person "acting under color of state law." *Andre v. Clayton Cnty.*, 148 F.4th 1282, 1291 (11th Cir. 2025). But a lawyer representing a client, merely by virtue of being an officer of the court, is not a state actor within the meaning of § 1983. *Polk Cnty. v. Dodson*, 4554 U.S. 312, 318 (1981). Because Curry at most only alleged state action on the part of Owensby stemming from her status as a member of the Georgia Bar and an officer of the court, he failed to plead state action. (*See* Doc. 10 at 3 (discussing Owensby's breach of the ethical standards of the Georgia Bar); Doc. 18 at 2 (describing Owensby as an officer of the court)). Curry's § 1983 claim against Wade also fails due to a failure to

IV. CONCLUSION

For the foregoing reasons, we affirm the district court's granting of the defendants' motions to dismiss and denial of Curry's motion to reconsider the dismissal of his amended complaint.

AFFIRMED.

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plead state action. (*See* Doc. 39 at 9). Dismissal of all § 1983 claims was thus proper on the merits.