

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11865
Non-Argument Calendar

EDDIE JAMES MOULTRIE,

Plaintiff-Appellant,

versus

LIEUTENANT W. GIELOW,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 3:24-cv-00389-LC-ZCB

Before ROSENBAUM, NEWSOM, and BRASHER, Circuit Judges.

PER CURIAM:

Eddie Moultrie, a state prisoner proceeding *pro se*, appeals the district court's *sua sponte* dismissal of his 42 U.S.C. § 1983 civil-rights action for failure to state a plausible claim under 28 U.S.C.

§ 1915A(b)(1). Moultrie alleged that Lieutenant W. Gielow, a former supervisory officer at the Santa Rosa Correctional Institution in Milton, Florida, violated his First Amendment rights by retaliating against him for filing prison grievances. For the reasons explained below, we vacate and remand for further proceedings.

I.

We present the relevant facts as alleged in Moultrie’s amended complaint, the operative pleading, accepting them as true for purposes of this appeal.¹ In December 2023, Moultrie was transferred to “close management²” housing in B-Dormitory at Santa Rosa. Near the end of January 2024, Lieutenant Gielow was assigned to B-Dorm as its head supervisor. Soon after, Moultrie filed several grievances alleging neglect or misconduct by prison officers, including lack of recreation time, refusal of healthcare callouts, and sexual comments. Gielow was aware of or responded to the grievances.

At 6:00 a.m. on February 19, 2024, Gielow awoke Moultrie “to advise that he doesn’t take kindly to me filing grievances.” Based on this comment, Moultrie felt his safety was at risk. Then,

¹ See *Christmas v. Nabors*, 76 F.4th 1320, 1328 (11th Cir. 2023) (stating that, in reviewing a dismissal for failure to state a claim under 28 U.S.C. § 1915A(b)(1), we “view the allegations in the complaint as true and draw all reasonable inferences from it in the plaintiff’s favor”).

² “Close management” refers to “the separation of an inmate apart from the general population, for reasons of security or the order and effective management of the institution.” Fla. Admin. Code § 33-601.800(1)(a).

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on April 12, 2024, Gielow “flat out threatened [Moultrie] without cause” while walking past his cell. Moultrie “felt compelled” to file a grievance based on this threat. According to the grievance, Gielow “stated that the first chance he gets he’s going to have me stripped, restrained[,] and going to have staff release 3-one second bursts of chemical agents up my ass,” in order to get Moultrie “back in line.”

Meanwhile, Moultrie received monthly “gaintime notice[s]” in which he was given an “unsatisfactory rating” for the months of February and March of 2024, based on allegedly false allegations in his daily housing record. He filed a grievance on April 25, 2024, alleging that prison staff had retaliated against him for filing grievances by falsifying his daily housing record on various dates, without issuing a disciplinary report, as a tactic to make him ineligible for gaintime without the ability to challenge the allegations. Gielow denied the grievance on April 30, 2024, stating in part, “I seem to recall that your bed had not been made up properly.”

On May 2, 2024, following an inspection by “Regional,” Gielow ordered staff to put Moultrie on property restriction. Later, Moultrie received a property restriction notice written by Gielow, stating that his cell was out of compliance during the inspection. Then, on May 7, 2024, Moultrie received a disciplinary report for disobeying an order, based on the same allegations but signed by a different officer. Moultrie confronted the officer, who admitted he did not write the report. Before the disciplinary hearing on May 9,

2024, the officer informed the hearing officers that he had not written the disciplinary report. Yet Moultrie “was still found guilty.” So he was ineligible to earn gaintime for May 2024, and he was continued on close management status and subject to “other residual negative [e]ffects.”

Moultrie appealed the denial of his April 25 grievance, and his retaliation claim against Gielow was approved for further inquiry and referred back to the Warden of Santa Rosa. The Warden then issued an “amended” response that “did not address the merits nor resolve the issues of [his] complaint,” according to Moultrie. Moultrie appealed again, but, around this time, Gielow resigned from FDOC.³

II.

Moultrie filed a § 1983 lawsuit, alleging that Gielow violated his First Amendment rights by retaliating against him for filing legitimate grievances. He sought damages, fees and costs, and compensation for lost gaintime.

³ Moultrie alleged additional retaliation and misconduct by other officers after Gielow resigned. But he advised that he was “not claiming [Gielow] is responsible for misconduct of these officers,” even if he felt that Gielow’s “acts led to it.” Accordingly, we do not consider these additional allegations when evaluating Moultrie’s retaliation claim against Gielow. *See Holloman v. Harland*, 370 F.3d 1252, 1263 (11th Cir. 2004) (stating that individual liability under § 1983 must be based on a defendant’s “own personal actions” or, “under certain limited circumstances, for the actions of his subordinates”).

A magistrate judge screened Moultrie’s amended complaint, *see* 28 U.S.C. § 1915A(b)(1), and found that it failed to state a plausible retaliation claim. In the judge’s view, Moultrie failed to offer specific, nonconclusory allegations that Gielow’s conduct had an adverse effect on his protected speech or that a causal relationship existed between the protected conduct and the alleged retaliation. The judge also concluded that Moultrie could not recover monetary damages for lost gaintime. Finding that further amendment would be futile, the magistrate judge recommended that the district court dismiss the action for failure to state a claim under § 1915A(b)(1).

After Moultrie timely filed objections, the district court adopted the magistrate judge’s recommendation and dismissed the action for failure to state a claim.⁴ This timely appeal followed.

III.

We review *de novo* the dismissal of a complaint for failure to state a claim under 28 U.S.C. § 1915A. *Christmas v. Nabors*, 76

⁴ The district court’s dismissal order incorrectly stated that “[n]o objections have been filed.” Moultrie moved for post-judgment relief under Fed. R. Civ. P. 60(b) based on the court’s failure to consider his timely objections. In denying the motion, the court stated that its dismissal order was “incorrect because the [c]ourt did in fact receive and review the [o]bjections prior to issuing the order.” The court advised that it had “again reviewed all the documents in this case to be doubly sure that everything, including the [o]bjections, were considered.” Moultrie doubts that the court actually considered his objections, but we see nothing to discredit the court’s statements on this matter, and our review is *de novo*, in any case. So we consider Moultrie’s objections and exhibits in resolving this appeal.

F.4th 1320, 1328 (11th Cir. 2023). We liberally construe documents drafted by *pro se* parties. *Id.*

Section 1915A requires courts to screen civil suits filed by “prisoner[s] seek[ing] redress from a governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a). The court must dismiss claims that are “frivolous, malicious, or fail[] to state a claim upon which relief may be granted.” *Id.* § 1915A(b)(1).

“The complaint must contain enough facts to make a claim for relief plausible on its face.” *Ramirez v. Paradies Shops, LLC*, 69 F.4th 1213, 1217 (11th Cir. 2023) (quotation marks omitted). In other words, the complaint must contain enough “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* In evaluating the sufficiency of the complaint, we accept the facts alleged “as true and construe them in the light most favorable to [the plaintiff], drawing on our judicial experience and common sense.” *Id.*

A.

A prisoner “is considered to be exercising his First Amendment right of freedom of speech when he complains to the prison’s administrators about the conditions of his confinement.” *Smith v. Mosley*, 532 F.3d 1270, 1276 (11th Cir. 2008). And “an inmate may maintain a cause of action against prison administrators who retaliate against him for making such complaints.” *Id.*

“To state a claim for First Amendment retaliation, a plaintiff must allege that he engaged in protected speech, that the official’s conduct adversely affected the protected speech, and that a causal

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connection exists between the speech and the official's retaliatory conduct." *Echols v. Lawton*, 913 F.3d 1313, 1320 (11th Cir. 2019). There is no dispute that Moultrie engaged in protected speech by filing grievances about the conditions of his confinement and the conduct of prison officers. *See Smith*, 532 F.3d at 1276.

As for the second element, "a defendant adversely affects protected speech if his alleged retaliatory conduct would likely deter a person of ordinary firmness from the exercise of First Amendment rights." *Bailey v. Wheeler*, 843 F.3d 473, 481 (11th Cir. 2016). "Whether the discipline 'would likely deter' presents an objective standard and a factual inquiry." *Smith*, 532 F.3d at 1277. Nonetheless, how the plaintiff actually "acted might be evidence of what a reasonable person would have done." *Bennett v. Hendrix*, 423 F.3d 1247, 1255 (11th Cir. 2005) (quotation marks omitted).

"The causal connection inquiry asks whether the defendants were subjectively motivated to discipline because [the plaintiff] complained of some of the conditions of his confinement." *Smith*, 532 F.3d at 1278. Courts often apply a burden-shifting framework to evaluate motive. *Williams v. Radford*, 64 F.4th 1185, 1193 (11th Cir. 2023). The plaintiff bears the initial burden of showing "that his constitutionally-protected speech was a motivating factor" in the defendant's decision to carry out the adverse actions. *Id.* (quotation marks omitted). If the plaintiff makes that showing, the burden shifts to the defendant to show that he would have taken the same action irrespective of the protected speech. *Id.*

The district court found that Moultrie failed to plausibly allege the second and third elements. It reasoned that there was no adverse effect because, despite the alleged retaliatory conduct, Moultrie was able to and continued to file grievances. The court also found that Moultrie failed to plead a plausible causal connection between his protected conduct and the alleged retaliation.

We conclude that the district court's reasons do not support dismissal of the amended complaint. First, Moultrie plausibly alleged adverse conduct that would likely deter a person of ordinary firmness from filing grievances. *See Bailey*, 843 F.3d at 481. Moultrie alleged that Gielow's conduct caused him to be ineligible for monthly gaintime, to lose privileges, and to be continued on close-management status, a form of segregated confinement.

We have held that similar sanctions adversely affected First Amendment activity. *See Williams*, 64 F.4th at 1193 (“[P]lacing an inmate in disciplinary/segregated confinement constitutes an adverse action for purposes of a First Amendment retaliation claim.”); *Smith*, 532 F.3d at 1275, 1277 (holding that forty-five days of disciplinary segregation and a loss of privileges adversely affected protected speech). The fact that Moultrie continued to file grievances, despite the alleged retaliatory conduct, is not dispositive, because the question of whether “discipline ‘would likely deter’ presents an objective standard and a factual inquiry.” *Smith*, 532 F.3d at 1277.

Second, Moultrie alleged sufficient facts to show that Gielow was subjectively motivated to discipline him because he complained about the conditions of his confinement. *See Williams*, 64

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F.4th at 1193. Moultrie alleged that, after he filed his initial round of grievances in late January 2024, Gielow specifically told him that he did not take kindly to Moultrie’s grievances, which when taken as true, suggests a subjective motivation to deter Moultrie from filing further grievances. *See id.* In addition, Moultrie’s allegations and supporting exhibits reflect close temporal proximity between Moultrie’s April 25 grievance, Gielow’s April 30 response, the imposition of property restrictions on May 2, and the disciplinary report on May 7. That “supports causation.” *See Huggins v. Sch. Dist. of Manatee Cnty.*, 151 F.4th 1268, 1282–83 (11th Cir. 2025) (stating that close temporal proximity “supports causation”).

For these reasons, we vacate the dismissal of Moultrie’s amended complaint and remand for further proceedings. *See Echols*, 913 F.3d at 1320.

B.

We note that the district court did not address the effect of Moultrie’s being found guilty of the allegedly false disciplinary charge. Under our precedent, “[a] prisoner cannot prove a claim of retaliation based on a prison disciplinary charge when the inmate was found guilty of the actual behavior underlying that charge.” *Smart v. England*, 93 F.4th 1283, 1290 (11th Cir. 2024) (quotation marks omitted). That rule applies “[i]f a prisoner is found guilty of an actual disciplinary infraction after being afforded due process and there was evidence to support the disciplinary panel’s fact finding.” *O’Bryant v. Finch*, 637 F.3d 1207, 1215–16 (11th Cir. 2011).

Nonetheless, at this early stage, we cannot tell whether these requirements were satisfied. *See, e.g., Williams*, 64 F.4th at 1195 (reviewing evidence of the process that the plaintiff received before concluding that *O’Bryant* controlled). Nor is the disciplinary proceeding the only alleged retaliatory conduct at issue. So we leave these matters for the district court to resolve in the first instance on remand.

Finally, Moultrie contends that the district court misconstrued his requested relief with respect to gaintime, and that he was actually seeking an award of the gaintime credit that Gielow allegedly prevented him from earning, instead of monetary compensation. But he concedes that such relief is unavailable because Gielow is “no longer a prison official.” And in any event, Moultrie cannot obtain gaintime as a remedy in this § 1983 case, because “the sole remedy in federal court for a prisoner seeking restoration of good-time credits is a writ of habeas corpus.” *Edwards v. Balisok*, 520 U.S. 641, 643–44 (1997).

IV.

In sum, we vacate the dismissal of Moultrie’s amended § 1983 complaint, and we remand for further proceedings consistent with this opinion.

VACATED AND REMANDED.