NOT FOR PUBLICATION

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-12377
Non-Argument Calendar

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff-Appellee,

versus

EMPIRES CONSULTING CORP., et al.,

Defendants,

JOSHUA DAVID NICHOLAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cv-21997-CMA

Before LUCK, LAGOA, and WILSON, Circuit Judges.

PER CURIAM:

Defendant-Appellant Joshua Nicholas, proceeding pro se, appeals the district court's denial of his motions challenging the default judgment against him. He argues that his disgorgement obligation under the default judgment should have been offset and the trading ban imposed on him was created under the wrong legal standard. In his notice of appeal, Nicholas designated the following district court orders: (1) February 4 order entering default judgment against Nicholas, issuing a trading ban against Nicholas, and imposing disgorgement and civil penalties; (2) June 17 order denying Nicholas' Rule 60(b) motion to set aside the judgment; and (3) June 30 order denying Nicholas' Rule 59(e) motion for reconsideration of the June 17 order.

The Commodity Futures Trading Commission moved to dismiss Nicholas' appeal because it was untimely as to the February 4 order, arguing that Nicholas had not filed any motions that would have tolled that time. We agreed and dismissed Nicholas' appeal as to the February 4 order but allowed the appeal to proceed as to the June orders. Despite this court's order, on appeal, Nicholas argues extensively that the district court used the wrong legal standard when it entered the trading ban in its February 4 order. But that order is not before this court.

Instead, we are reviewing the June orders, which are appeals of denials of Rule 60(b) and Rule 59(e) motions.[1] An appeal of a

[1] We review denials of Rule 60(b)(1) and (6) motions for abuse of discretion, and we review denials of Rule 60(b)(4) motions de novo. *Oldfield v. Pueblo De Bahia Lora, S.A.*, 558 F.3d 1210, 1217 (11th Cir. 2009). We review the denial of

ruling on a Rule 60(b) motion "is narrow in scope, addressing only the propriety of the denial or grant of relief and does not raise issues in the underlying judgment for review." *Am. Bankers Ins. Co. of Fla. v. Nw. Nat'l Ins. Co.*, 198 F.3d 1332, 1338 (11th Cir. 1999).

We hold pro se pleadings to a less stringent standard than counseled pleadings and liberally construe them. *Bilal v. Geo Care, LLC*, 981 F.3d 903, 911 (11th Cir. 2020). But even as a pro se litigant, Nicholas is still required to properly brief the issues by plainly and prominently raise them, "for instance by devoting a discrete section of his argument" to them. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) (quotation marks omitted). Nicholas' brief generally refers to the June orders as Rule 60(b) motions but does not expressly challenge any of the grounds in the June orders. Thus, Nicholas abandoned any challenge to the district court's denials of his motions because he raised no specific arguments under Rules 60(b) and 59(e).[2]

a Rule 59 motion for abuse of discretion. *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (per curiam).

[2] Even if Nicholas has not abandoned his challenges, the district court did not err in denying Nicholas' Rule 60(b) and Rule 59(e) motions. First, under Rule 60(b)(1), Nicholas failed to show excusable neglect of the Commodity Futures Trading Commission's (CFTC) enforcement action because he admitted to receiving notice of the action and filed numerous pro se filings in his parallel criminal prosecution. *Solaroll Shade & Shutter Corp. v. Bio-Energy Sys., Inc.*, 803 F.2d 1130, 1132 (11th Cir. 1986). Second, under Rule 60(b)(4), Nicholas failed to show that he was denied a notice and opportunity to be heard because he received the default letter and communicated with counsel about the CFTC's action. *Bainbridge v. Governor of Fla.*, 75 F.4th 1326, 1336 (11th Cir. 2023).

AFFIRMED.

Third, under Rule 60(b)(6), Nicholas cannot show that exceptional circumstances were met when the court imposed the trading ban on him. *BLOM Bank SAL v. Honickman*, 605 U.S. 204, 211 (2025). Lastly, the district court did not abuse its discretion by denying him Rule 59(e) relief because Nicholas' motion for reconsideration raised old, previously rejected arguments. *Arthur*, 500 F.3d at 1343.