

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13290
Non-Argument Calendar

DARREL DEON HARVEY,

Plaintiff-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
CLINT BEAM,

FDLE Agent,

DIRECTOR FLORIDA DEPT LAW ENFORCEMENT,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:24-cv-00494-RH-MAF

Before NEWSOM, BRANCH, and BRASHER, Circuit Judges.

PER CURIAM:

Darrel Deon Harvey, proceeding *pro se*, appeals the district court's dismissal of his third amended 42 U.S.C. § 1983 complaint challenging his sex offender designation registration requirements. He argues that the district court erred in finding that his challenges to defendant Clint Beam's role in Harvey's 2017 and 2018 criminal proceedings, and the Florida Department of Law Enforcement's ("FDLE") and Florida Department of Correction's ("FDOC") ongoing enforcement of sex offender registration requirements under Florida law and the federal Sex Offender Registration and Notification Act¹ ("SORNA"), were barred by the statute of limitations or failed to state a claim. After careful review, we affirm the district court's dismissal.²

I. Background

We begin by providing background on Harvey's prior criminal conviction before detailing Harvey's claims.

¹ The federal Sex Offender Registration and Notification Act provides minimum standards for sex offender registration and notification that the States must follow. *See* 34 U.S.C. § 20912 et seq.

² Harvey has also filed a "Motion to Submit Case for Decision on Briefs Without Oral Argument." Because we do not require oral argument to resolve this appeal and Harvey's requested deadline for a decision by December 6, 2025, has passed, we DENY the motion as moot. *See Friends of Everglades v. S. Fla. Water Mgmt. Dist.*, 570 F.3d 1210, 1216 (11th Cir. 2009) ("An issue is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief." (quotation omitted)).

25-13290

Opinion of the Court

3

A. *Harvey's Criminal Conviction*³

In February 2018, the State charged Harvey with, among other counts, the following:

[U]nlawfully and knowingly travel[ing] any distance within[] [the] State, for the purpose of engaging in an illegal act described in Chapter 794, Chapter 800, or Chapter 827, Florida Statu[t]es, or to otherwise engage in other unlawful sexual conduct with a child or a person believed to be a child, after using a computer online service, internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to do so, a child or another person believed to be a child, to engage in or to otherwise engage in other unlawful sexual conduct with a child or another person believed to be a child, contrary to Section 847.0135(4)(a), Florida Statutes.

³ In ruling on Harvey's third amended complaint, the magistrate judge took judicial notice of filings from Harvey's previous federal habeas corpus proceedings. We may similarly consider these judicial records. *See Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007) (explaining that, in ruling on a motion to dismiss, "courts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on" such motions, including "matters of which a court may take judicial notice"); Fed. R. Evid. 201 (explaining that court "may judicially notice a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned"). Neither party challenges these facts about Harvey's previous conviction on appeal; Harvey's objections instead focus on the legality of the sex offender registration requirements as applied to him.

A probable cause affidavit FDLE agent Beam prepared on February 12, 2017, supported the charges and reported that Harvey made a series of electronic communications through an online or internet service with an undercover investigator posing as a 14-year-old girl. It also reported that Harvey agreed to travel to meet the child for the purposes of sex and that Harvey was arrested after arriving at the location.

In May 2018, a jury found Harvey guilty of the counts in the information. Prosecutors moved for an order declaring Harvey a sex offender under Florida Statute § 943.0435 based on his conviction for traveling to meet a minor under § 847.0135(4)(a). On June 14, 2018, the state trial court granted the motion, finding that Harvey “qualifie[d] under Section 943.0435 to be a Sexual Offender” and that he would “be subject to the registration requirements of Florida Statute § 943.0435 and shall initially report to an office of the [FDLE] or the Sherriff’s Office of the county of his residence within 48 hours of his release from custody . . . and comply with all other requirements of Florida Statute § 943.0435.” The state trial court entered a separate order imposing sex-offender probation conditions on Harvey, including limiting his ability to have contact with children except his own and prohibiting him from accessing the internet or other computer services (unless for work purposes) until approved by a qualified sexual offender treatment provider. The same day, the state trial court also entered a written final judgment indicating Harvey’s conviction for “[t]raveling to meet a minor” in violation of Florida Statute § 847.0135(4)(a) and sentencing him to 36 months’ imprisonment

25-13290

Opinion of the Court

5

followed by 5 years' probation. The judgment stated that Harvey met the sex offender criteria under Florida Statute § 943.0435(1)(a) and that he must "follow sex offender conditions under [Florida Statute § 948.30]" and the sex offender probation conditions in the court's separate order.

On February 1, 2019, the trial court entered an amended judgment reflecting that Harvey met the "criteria for a sexual offender as set forth in" Florida Statute § 943.0435(1)(a) and clarifying that he was "required to follow the sex offender probation conditions specifically set forth" in the court's June 14, 2018 order. According to Harvey, he was released from prison on December 7, 2020, at which time he began serving his probationary term and was required to register as a sex offender in Florida.

B. Procedural Background⁴

On December 6, 2024, Harvey filed a § 1983 complaint against the Secretary of the FDOC, the Commissioner of the FDLE, and Clint Beam, an FDLE agent, alleging various constitutional violations related to his arrest, prosecution, designation as a sex offender, and the related registration requirements. In his third amended complaint (and the operative complaint here), he alleged that the probable cause affidavit Beam drafted led to Harvey's arrest for traveling to meet a minor but did

⁴ We "accept[] the factual allegations in the complaint as true and constru[e] them in the light most favorable to" Harvey for the purposes of evaluating the motion to dismiss. *Doe ex rel. Doe #6 v. Swearingen*, 51 F.4th 1295, 1302 (11th Cir. 2022) (quotations omitted).

not adequately specify the nature of the offense or its elements as required under SORNA and Florida Statute § 847.0135(4)(a). He also alleged the information in his case was defective, he did not receive fair notice of the charges against him, and that the jury verdict did not adequately specify his offense. Thus, Harvey brought a claim against Beam for violating his constitutional rights in filing the affidavit (Count One). He also brought a claim against the FDLE for violating his constitutional rights when it oversaw the operation that led to his arrest (Count Two).

The complaint also alleged that after his conviction on May 23, 2018, Harvey “was erroneously declared a Sexual Offender . . . without the order specifying an underlying specific offense proscribed by law.” The complaint added that the trial court purportedly acknowledged this defect in a February 17, 2023 order.⁵ The complaint also alleged that Harvey’s obligation to register as a sex offender did not arise until December 7, 2020, which was when the “consequences associated with being labeled a Sexual Offender” took effect, and that he had been “subjected to mandatory sex offender registration under SORNA and Florida

⁵ Harvey attached the February 17, 2023 state court order to a later filing. The order found that the information “omit[ted] no essential elements” and properly cited a specific statute, though it also stated that “no new trial may be granted for the defect in this information,” apparently referring to a defect in the information alleged by Harvey. That court order also criticized Harvey’s “flurry of collateral attacks against his judgment and sentence” before denying Harvey’s motion to correct his sentence based on the claimed defect.

25-13290

Opinion of the Court

7

law,” both of which Harvey alleged were unconstitutional as applied to him.

These alleged violations gave rise to Harvey’s other claims against FDOC and FDLE. As to FDLE, Harvey brought a claim alleging FDLE “improperly” included Harvey in the sex offender registry “without a qualifying offense,” causing “reputational harm and stigma,” and defamed him by displaying two offenses instead of one in the registry (Count Two). Harvey claimed FDOC committed similar constitutional violations in enforcing the sex offender registration requirements (and associated restrictions on computer use and child interaction) against him, and that FDOC had violated his Sixth Amendment right to access the courts and Florida law by placing him in a facility without a law library or law clerks (Count Three).

Given the timing of his complaint almost four years after his release from prison, Harvey argued that Florida’s four-year statute of limitations did not bar his § 1983 claims for four reasons. First, equitable tolling applied based on Harvey’s “blameless ignorance” because his incarceration from May 23, 2018, to December 7, 2020, prevented him from pursuing his claims, and his prison lacked a law library and law clerks. Second, Harvey had suffered a continuing constitutional violation beyond his incarceration and initial designation because he remained subject to sex offender registration under SORNA and Florida law as well as sex offender probation, although the probation would end on December 6, 2025. Third, he had exhausted his available administrative

remedies before filing his complaint. Fourth, his claims did not accrue until February 17, 2023, when the trial court first identified the defect in the information. Alternatively, Harvey argued that the statute of limitations only began running on December 7, 2020, when he was released from incarceration and required to register under SORNA and Florida law. Harvey requested various forms of declaratory and injunctive relief, including an order removing him from the Florida and federal sex offender registries, prohibiting the defendants from enforcing the registration requirements, and terminating all sex offender probation conditions.

All three defendants moved to dismiss Harvey's third amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), arguing in relevant part, that Harvey's claims were barred by the applicable four-year statute of limitations and did not fall under the continuing violation exception, that the court lacked jurisdiction under the *Rooker-Feldman* doctrine, and that Harvey failed to state a claim upon which relief could be granted. A magistrate judge then entered a report and recommendation ("R&R") recommending that the district court dismiss the complaint for two reasons. The magistrate judge found that the statute of limitations had run on Harvey's § 1983 claims because the state court declared him a sex offender and subject to the related registration requirements on June 14, 2018. Equitable tolling did not apply because Harvey's ignorance of the law or lack of awareness as to his rights did not toll the limitations period. Nor did the continuing violation doctrine save Harvey's claims because the June 2018 and February 2019 judgments gave him clear notice

25-13290

Opinion of the Court

9

that he must register as a sex offender and undermined his argument that he was ignorant of his injuries until after his release. The magistrate judge found that there was a distinction between a continuing harm and a continuing violation, and Harvey's alleged injuries stemmed from his continuing duty to comply with the registration requirements from his original declaration as a sex offender rather than from a new violation of his rights (*e.g.*, such as new provisions that were recently enacted and had added additional burdens). The magistrate judge also found that the court lacked jurisdiction to adjudicate Harvey's complaint under the *Rooker-Feldman*⁶ doctrine, which prevents district courts from reviewing final state court judgments, because Harvey's challenges inextricably intertwined with the state court judgment declaring him a sex offender.

Harvey filed objections to the R&R. But the district court adopted the R&R over his objections, finding that Harvey's challenge to the registration requirement was barred by the statute of limitations because he had actual notice of the registration requirement and knew all he needed to know to challenge that requirement when the state trial court sentenced him and entered its separate order designating him a sex offender. The district court found that this notice triggered the four-year statute of limitations and that Harvey's case was not one in which he "did not have notice of the challenged requirement until some point within the four-

⁶ *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

year period” or one where “the defendants continued to take new action with new or continuing consequences within the four-year period.”

Alternatively, the district court found that Harvey’s argument that the State could not properly require him to register would fail on the merits because it was well established that a state can require registration based on an offense of conviction. Finally, to the extent Harvey asserted that his conviction itself was improper, such a claim was not viable under §1983 and could be brought only in a petition for a writ of habeas corpus under 28 U.S.C. § 2254. And, because Harvey had already filed and lost such a petition, he must petition this Court for leave to file a second or successive § 2254 petition.⁷ It separately found that the statute of limitations also barred Harvey’s challenge to the internet and child-contact restrictions in his conditions of probation and that, even if it did not, Harvey could bring such a challenge only in a second or successive § 2254 petition. Accordingly, the court granted the motions to dismiss with prejudice.

Harvey timely appealed.

⁷ Harvey had brought a petition for a writ of habeas corpus under 28 U.S.C. § 2254, which the district court denied. See Order, *Harvey v. Dixon*, No. 4:24-cv-3 (N.D. Fla. July 15, 2024), *certificate of appealability denied*, No. 24-12568 (11th Cir. Dec. 23, 2024).

II. Discussion

On appeal, Harvey argues that the statute of limitations had not run when he filed his complaint because his claims did not accrue until he was required to register as a sex offender within 48 hours of his release from custody on December 7, 2020, rather than upon his 2018 conviction or sentencing. He also argues that the district court's order was "conclusory" and did not address all his arguments.⁸ He maintains that he was raising a due process and jurisdictional challenge to the registration requirement under § 1983 rather than attacking the underlying conviction; that neither the charging instrument nor the judgment in his criminal case identified a qualifying statute or conviction with the requisite specificity; that "[t]he absence of any such predicate or executive notice is a constitutional defect independently redressable under § 1983"; and that he had no meaningful opportunity to challenge the mandatory registration of his alleged "dangerousness" without notice of the qualifying offense or conduct. In Harvey's view, the district court failed to consider whether his offense was a qualifying

⁸ Harvey also takes issue with the district court's failure to discuss various defenses raised by the defendants in their motion to dismiss, including the *Rooker-Feldman* doctrine. But his claim fails. He lacks appellate standing to challenge the district court's failure to rule on the defendants' defenses because he is not injured by the court's failure to rule on those defenses. See *Nationwide Mut. Ins. Co. v. Barrow*, 29 F.4th 1299, 1301 (11th Cir. 2022) ("Only a litigant who is aggrieved by the judgment or order has appellate standing. . . . If the judgment of the district court does not injure the party appealing that judgment, then the party does not have appellate standing." (quotations and citations omitted)).

conviction under Florida Statute § 943.0435(1)(a) for purposes of the sex offender registration requirement.⁹

We address Harvey’s claims in three parts. We begin with the legal framework, including the standard of review and a description of the applicable sex offender registration laws. With that background established, we then discuss the statute of limitations. We then proceed to analyze whether Harvey’s claims that survive the statute of limitations are otherwise barred or fail on their merits.

A. Legal Framework

We review *de novo* a district court’s ruling on a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), “accepting the factual allegations in the complaint as true and construing them in the light most favorable to the plaintiff.” *Doe ex rel. Doe #6 v.*

⁹ Additionally, Harvey argues for the first time in his reply brief that (1) the sex-offender registration requirements violate *Apprendi v. New Jersey*, 530 U.S. 466 (2000), because the registration requirements subject him to ongoing criminal penalties for failing to register even though a jury never found that his conviction qualified as statutory predicate; (2) the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), mandated that the district court independently decide whether his state conviction satisfies the federal sex offender registry statutory requirements; (3) he remains subject to arbitrary punishment and enforcement by Florida’s punitive sex offender registration scheme in violation of *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 (1963); and (4) the state remedies available to him are inadequate. We do not address these issues because they are not properly before the Court. *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (“[W]e do not address arguments raised for the first time in a *pro se* litigant’s reply brief.”).

25-13290

Opinion of the Court

13

Swearingen, 51 F.4th 1295, 1302 (11th Cir. 2022) (quotation omitted). We also review a district court’s interpretation and application of a statute of limitations *de novo*. *Harrison v. Digit. Health Plan*, 183 F.3d 1235, 1238 (11th Cir. 1999) (per curiam). We “may affirm on any ground supported by the record, regardless of whether that ground was relied upon or even considered below.” *PDVSA US Litig. Tr. v. LukOil Pan Americas LLC*, 65 F.4th 556, 562 (11th Cir. 2023) (quotation omitted).

To survive a Rule 12(b)(6) motion to dismiss, a complaint must allege “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A *pro se* pleading is held to a less stringent standard than a pleading drafted by an attorney and is liberally construed.” *Waldman v. Conway*, 871 F.3d 1283, 1289 (11th Cir. 2017). But “a *pro se* pleading must still suggest that there is at least some factual support for a claim,” *id.*, and “we cannot act as de facto counsel or rewrite an otherwise deficient pleading to sustain an action,” *Bilal v. Geo Care, LLC*, 981 F.3d 903, 911 (11th Cir. 2020).

An appellant who fails to “plainly and prominently” raise a claim in his opening brief, or who makes passing references to it “in a perfunctory manner without supporting arguments and authority,” abandons it on appeal. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) (quotations omitted). While we construe *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) (per curiam). Appellate courts should

generally disregard errors on appeal that “do not affect the substantial rights of the parties.” *Amoco Oil Co. v. Gomez*, 379 F.3d 1266, 1276 (11th Cir. 2004) (quoting 28 U.S.C. § 2111).

Harvey raises challenges to sex offender registration requirements under both Florida and federal law. “In Florida, persons convicted of a qualifying sexual offense . . . are subject to registration and reporting requirements for life.” *Clements v. Florida*, 59 F.4th 1204, 1207 (11th Cir. 2023). One such qualifying offense is a conviction under Florida Statute § 847.0135(4)(a), which criminalizes the following activity:

Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described [in other statutory provisions], or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to [s]educe, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described [in other statutory provisions], or to otherwise engage in other unlawful sexual conduct with a child[,] . . . commits a felony of the second degree

Fla. Stat. § 847.0135(4)(a)¹⁰; *see id.* § 943.0435(1)(h)(1)(a)(I) (listing the offenses requiring registration). “Upon initial in-person registration, sex offenders must provide the state with all of their personal and identifying information,” and must keep their registration up to date. *Clements*, 59 F.4th at 1207.

At the federal level, Congress established a comprehensive national system for registration of sex offenders when it enacted SORNA in 2006. *United States v. Vineyard*, 945 F.3d 1164, 1168 (11th Cir. 2019). SORNA’s registration requirements apply to state and federal sex offenders. *Id.* A “sex offender” is “an individual who was convicted of a sex offense.” 34 U.S.C. § 20911(1). A “sex offense” includes a State criminal offense “that is a specified offense against a minor.” *Id.* § 20911(5)(A)(ii), (6). A “specified offense against a minor,” in turn, includes an offense that involves “[s]olicitation to engage in sexual conduct” or “[c]riminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.” *Id.* § 20911(7)(C), (H). We have held that “SORNA permits examination of the defendant’s underlying conduct—and not just the elements of the conviction statute—in determining what constitutes a ‘specified offense against a minor.’” *United States v. Dodge*, 597 F.3d 1347, 1354 (11th Cir. 2010) (*en banc*); *see also Vineyard*, 945 F.3d at 1170 (citing *Dodge* for the proposition that “a non-categorical approach applies to SORNA’s definition of a ‘specified offense against a minor’”).

¹⁰ Section 847.0135(4)(a) has remained unaltered since Harvey’s conviction in June 2018.

B. Statute of Limitations

The statute of limitations was the primary reason for the district court's dismissal below; accordingly, we analyze its application first. The statute of limitations for § 1983 claims is "governed by the forum state's residual personal injury statute of limitations," *Burton v. City of Belle Glade*, 178 F.3d 1175, 1188 (11th Cir. 1999), which is four years in Florida, Fla. Stat. § 95.11(3); see *Chappell v. Rich*, 340 F.3d 1279, 1283 (11th Cir. 2003). But "[f]ederal law determines when the statute of limitations begins to run." *Lovett v. Ray*, 327 F.3d 1181, 1182 (11th Cir. 2003) (per curiam). The general rule is that "the statute of limitations begins to run when the facts which would support a cause of action are apparent or should be apparent to a person with a reasonably prudent regard for his rights." *Doe*, 51 F.4th at 1303 (quotation omitted). This starting point is the moment when the plaintiff knows or should know "(1) that [he has] suffered the injury that forms the basis of [his] complaint and (2) who has inflicted the injury." *Chappell*, 340 F.3d at 1283. This analysis "requires a court first to identify the alleged injuries, and then to determine when plaintiffs could have sued for them." *Rozar v. Mullis*, 85 F.3d 556, 562 (11th Cir. 1996).

The statute of limitations also comes with exceptions. "The continuing violation doctrine permits a plaintiff to sue on an otherwise time-barred claim when additional violations of the law occur within the statutory period." *Ctr. for Biological Diversity v. Hamilton*, 453 F.3d 1331, 1334 (11th Cir. 2006) (per curiam). "[A] law inflicting a continuing and accumulating harm on a plaintiff

actively deprives that plaintiff of his asserted constitutional rights every day that it remains in effect.” *Doe*, 51 F.4th at 1305 (alteration adopted) (quotation omitted). But courts must “distinguish[] between the present consequence of a one time violation, which does not extend the limitations period, and the continuation of the violation into the present, which does.” *Calloway v. Partners Nat’l Health Plans*, 986 F.2d 446, 448 (11th Cir. 1993) (quotation omitted). “A prior violation of a plaintiff’s constitutional rights is not a continuing violation simply because its effects linger into the present.” *Doe*, 51 F.4th at 1305.

In *Doe*, we considered whether Florida’s four-year statute of limitations barred 2018 challenges to Florida’s sex offender registration scheme under § 1983 when the plaintiffs had been subject to sex offender reporting requirements since 1997. *Id.* at 1299–300. Four holdings from that case are relevant here.

First, we held that the statute of limitations did not bar plaintiffs’ claims concerning injuries specifically caused by 2018 amendments to the reporting requirements because the plaintiffs had not suffered these injuries before the threatened enforcement of the amendments, and their claims therefore did not arise until after 2018. *Id.* at 1307. Second, we held that the plaintiffs’ claims alleging a reputational injury from the FDLE’s maintenance of an internet sex offender registry—and its sending officers to plaintiffs’ neighborhoods to verify where they lived on an ongoing basis—were saved under the continuing violation doctrine because the plaintiffs’ injuries “depend[ed] on continuing enforcement actions

taken by the [FDLE] within the limitations period.” *Id.* at 1307–08. Third, we held that the plaintiffs’ claims concerning the registry law’s requirement that they take certain actions and alter their conduct to avoid other actions alleged a continuing violation. *Id.* at 1309. We explained that the requirement that the plaintiffs “make multiple in-person reports each year,” along with the burden of determining whether an action on any given day required making an in-person report, was an injury caused “by the [FDLE’s] continuing threat of enforcement of the registration and re-registration requirements” rather than one “caused by the plaintiffs’ initial designation as sex offenders.” *Id.* at 1309. Fourth, we held that the statute of limitation barred plaintiffs’ argument that their very classification as sex offenders injured them because “their claim was complete at the time they were categorized as sex offenders and made subject to the law’s requirements.” *Id.* at 1310. The harms they continued to suffer—such as complying with sex offender obligations until they died—were nothing “more than the lingering effects of the plaintiffs’ initial designation as sex offenders.” *Id.*

The statute of limitations bars many of Harvey’s claims. First, Florida’s four-year statute of limitations, which applied to all his § 1983 claims, bars Harvey’s claims against Beam in Count One. *See Burton*, 178 F.3d at 1188; Fla. Stat. § 95.11(3). Count One related to Beam’s filing of an allegedly defective probable cause affidavit in February 2017 and his actions during the criminal investigation into Harvey prior to Harvey’s 2018 conviction. Because these injuries predated Harvey’s initial December 6, 2024 complaint by more

than four years, Count One was untimely. And while Harvey alleged that Beam's actions resulted in later harms, these are merely the present consequences of Beam's previous actions rather than new constitutional violations inflicted by Beam. As a result, the continuing violation doctrine does not save Harvey's untimely claims against Beam. *See Calloway*, 986 F.2d at 448; *Doe*, 51 F.4th at 1305. For the same reason, the statute of limitations bars Harvey's claims regarding the FDLE's role in his criminal investigation and the accompanying arrests and searches.¹¹

But the statute of limitations does *not* bar several of Harvey's claims challenging the FDLE and FDOC's ongoing enforcement of sex offender registration requirements against him. Granted, as the district court found, the state trial court designated Harvey as a sex offender on June 14, 2018, and put him on notice that he would be subject to the registration requirements under Florida Statute § 943.0435. Even so, because enforcement of the registration obligations from the June 2018 order did not begin until Harvey's release from custody on December 7, 2020, Harvey had not suffered any registration-related injuries at the hands of the FDLE and FDOC until that date. *See Chappell*, 340 F.3d at 1283.

¹¹ Harvey has abandoned any argument regarding equitable tolling by failing to discuss any grounds for equitable tolling in his opening brief. Harvey's brief includes a footnote arguing that the state court's June 2018 order declaring him a sex offender was "unsigned" and thus could not "defeat tolling or support a limitations bar." But this passing reference to "tolling" did not adequately brief equitable tolling as a basis for relief. *See Sapuppo*, 739 F.3d at 681.

Consequently, his registration claims did not accrue until December 7, 2020, the date when he (1) began to suffer the registration-related injuries described in his complaint and (2) could identify who inflicted these injuries. *See Chappell*, 340 F.3d at 1283. Additionally, Harvey alleged injuries stemming from his registration obligations under both Florida law *and* SORNA, and none of the state court filings from June 2018 or February 2019 put Harvey on notice that he must register under SORNA. And even if Harvey’s registration claims accrued before December 7, 2020, he alleged several categories of injuries covered by the continuing violation doctrine, including ongoing stigma and reputational harm associated with his continued inclusion in sex offender registries, *Doe*, 51 F.4th at 1307–08, and ongoing harm from his continued obligation to comply with restrictive sex offender registration requirements, including travel restrictions, *Id.* at 1309. Thus, we analyze whether the district court properly dismissed the claims the statute of limitations does not bar.

C. The Surviving Claims

Harvey’s surviving claims fail on other grounds. The district court found that Harvey could bring his attacks on his underlying conviction only in a petition for a writ of habeas corpus. Under 28 U.S.C. § 2254, a district court must entertain such a petition filed by a person “in custody” under the judgment of a state court “on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). “[T]he ‘in custody’ requirement may . . . be met where a petitioner is on

probation, parole or bail.” *Duvallon v. Florida*, 691 F.2d 483, 485 (11th Cir. 1982) (per curiam). “Issues sounding in habeas are mutually exclusive from those sounding in a § 1983 action.” *McNabb v. Comm’r Ala. Dep’t of Corr.*, 727 F.3d 1334, 1344 (11th Cir. 2013). A person in custody may generally sue under § 1983 for unconstitutional treatment at the hands of state officials “unless his claim falls into that statute’s implicit exception for actions that lie within the core of habeas corpus.” *Nance v. Ward*, 597 U.S. 159, 160 (2022) (quotation omitted). “When a prisoner seeks relief that would necessarily imply the invalidity of his conviction or sentence, he comes within the core and must proceed in habeas.” *Id.* (quotation omitted).

Most of Harvey’s challenges to the FDLE and FDOC’s enforcement of the registration requirements turned on the alleged lack of a “qualifying sex offense” and “improper” and “erroneous[]” designation as a sex offender. But Harvey was convicted under Florida Statute § 847.0135(4)(a), and Florida law explicitly designates a person convicted under Florida Statute § 847.0135 as a sex offender who is subject to the registration requirements of § 943.0435.¹² See Fla. Stat. § 943.0435(1)(h)(1)(a)(I).

¹² Because we determine that Harvey qualified as sex offender under Florida law, he necessarily qualifies as a sex offender under SORNA, which encompasses State criminal offenses involving specified offenses against minors involving solicitation to engage in sexual conduct. See 34 U.S.C. 20911(5)(A)(ii), (6), (7)(C) & (I).

As the district court found, to the extent that Harvey argued that he should have never been convicted under § 847.0135 due to deficiencies in the probable cause affidavit, information, jury instructions, and jury verdict, this challenge fell within the core of claims properly brought in a § 2254 habeas petition—not a § 1983 action. *See Nance*, 597 U.S. at 160. The same applies to Harvey’s attempts to challenge the FDOC’s enforcement of state-imposed sex offender probation conditions, including the internet-access restrictions and child-contact restrictions—a challenge to the invalidity of an aspect of his sentence. *See id.* And Harvey could have filed such a § 2254 petition or sought leave from this Court to file a second or successive § 2254 petition, because he was still serving his five-year term of sex offender probation during the district court proceedings, and he therefore remained “in custody” of the State. *See* 28 U.S.C. § 2254(a); *Duvallon*, 691 F.2d at 485. But Harvey instead filed this § 1983 action, an improper vehicle to challenge his conviction and sentence, and the district court therefore correctly dismissed his claims. *See Nance*, 597 U.S. at 160.¹³

¹³ In his third amended complaint, Harvey alleged a claim against the FDOC for dismissing grievances he filed in June 2023 “without proper review or investigation.” However, he describes the grievance as “regarding how the vague language” in the charging information “fail[ed] to include a definable proscribed offense that requires registration.” Because the grievance implied the invalidity of his conviction, Harvey was required to bring the claim in habeas, not in this § 1983 action, and the district court properly dismissed it. *See Nance*, 597 U.S. at 160.

25-13290

Opinion of the Court

23

III. Conclusion

For the reasons discussed above, the district court did not err in dismissing Harvey's claims.

AFFIRMED.