NOT FOR PUBLICATION

In the United States Court of Appeals
For the Eleventh Circuit

No. 25-14133
Non-Argument Calendar

ESTATE OF ERNEST DOWNING, SR.,

Plaintiff,

RAQUEL DOWNING,

Plaintiff-Appellant,

versus

DWAYNE BROWN, Driver,

Defendant-Appellee,

DAVITA, INC., et al.,

Defendants.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:24-cv-02909-WMR

Before BRASHER, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Raquel Downing, proceeding pro se, appeals the district court's *sua sponte* dismissal of her complaint for lack of standing. She argues that the district court abused its discretion when it took judicial notice of documents from outside the record without giving her prior notice or an opportunity to respond before dismissing her complaint. After careful review, we affirm.

I.

Downing filed a complaint in federal district court on behalf of the estate of her father, Ernest Downing, naming several of his caregivers and medical providers as defendants. The complaint alleged causes of action under Georgia state law, including wrongful death, negligence, vicarious liability, and corporate negligence.

In an Order to Show Cause, the district court noted that, to bring a wrongful death claim under Georgia law, the action must be brought by "[t]he surviving spouse or, if there is no surviving spouse, a child or children." Doc. 12 at 1 (quoting GA. CODE ANN. § 51-4-2(a)). And to bring a personal injury claim on behalf of a victim under Georgia tort law, the action must be brought by the "personal representative of the deceased plaintiff." *Id.* (quoting GA. CODE ANN. § 9-2-41). To assure itself that Downing had standing to bring the claims, the district court ordered her "to show cause that she has been appointed as the administrator or executor of" her father's estate. *Id.* at 2.

Downing responded to the Order, arguing that she has standing to pursue a wrongful death claim under section 51-4-2 because "[t]here is no lawful surviving spouse." Doc. 14 at 1. She claimed that her father's marriage to Angela Braithewaite-Bussey was invalid and that the probate court's validation of the marriage "deprive[d] [her] of her rights as a legal heir." *Id.* at 3. She further requested that the district court refer the matter to the Department of Veterans Affairs, Secretary of State, and various federal and state law enforcement agencies for investigation. Downing did not contend that she was the administrator or executor of her father's estate, but she did state that, on account of the facts discussed above, she "has fully explained the circumstances that prevented her appointment as Administrator under [section] 9-2-41." *Id.* at 5. Accordingly, she requested "that the Court accept [her] Response as sufficient and allow [the] matter to proceed on its merits." *Id.*

The district court dismissed Downing's complaint *sua sponte* for lack of standing. It reasoned that Downing could not bring the claims under Georgia law because her father had a surviving spouse (precluding Downing from bringing the wrongful death claim under section 51-4-2(a)) and Downing was not the executor of her father's estate (precluding her from bringing the tort claims under section 9-2-41). To reach this conclusion, the district judge took judicial notice of two exhibits from a related case filed by Downing (over which the district judge presided), and he attached those exhibits to his order. The two exhibits included a copy of Mr. Downing's and Mrs. Brathwaite-Bussey's marriage certificate and license, and a copy of the Probate Court of Fulton County's order

recognizing Brathwaite-Bussey as Mr. Downing's surviving spouse and appointing Luanne Bonnie as the temporary administrator of his estate.

Downing appealed.

II.

We review a district court's dismissal for lack of standing *de novo*. *Sierra v. City of Hallandale Beach*, 996 F.3d 1110, 1112 (11th Cir. 2021) (citing *CAMP Legal Def. Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1268 (11th Cir. 2006)). We review "a district court's decision to take judicial notice of a fact for abuse of discretion." *Paez v. Sec'y, Fla. Dep't of Corr.*, 947 F.3d 649, 651 (11th Cir. 2020) (citing *Lodge v. Kondaur Cap. Corp.*, 750 F.3d 1263, 1273 (11th Cir. 2014)). "A district court abuses its discretion if it applies an incorrect legal standard, applies the law in an unreasonable or incorrect manner, follows improper procedures in making a determination, or makes findings of fact that are clearly erroneous." *United States ex rel. Sedona Partners LLC v. Able Moving & Storage Inc.*, 146 F.4th 1032, 1039 (11th Cir. 2025) (citation modified).

III.

Downing contends that the district court's dismissal of her complaint for lack of standing improperly relied on extra-record materials and violated her due process rights. For the following reasons, we reject these claims.

First, Downing's argument is supported almost exclusively by fabricated legal authorities. Throughout her appellate brief,

Downing relies on precedents that do not exist. For example, she quotes *United States v. Jones*, 29 F.4th 1290, 1294 (11th Cir. 2022), as providing that "[C]ourts must confine themselves to the record developed in the proceeding before them." Neither that precedent nor the quoted text exists in any of this Court's precedents in any form. She also provides seemingly fake quotations from real precedents. For example, she says our real decision in *In re Worldwide Web Sys., Inc.*, 328 F.3d 1291, 1299 (11th Cir. 2003), includes the holding that "Due process requires that a party be given notice and an opportunity to respond before a court takes adverse action based on disputed factual matters." But that precedent addresses service of process and does not include anything like the alleged quotation. Although we give liberal construction to the filings of pro se litigants, "we nevertheless have required them to conform to procedural rules." *Loren v. Sasser*, 309 F.3d 1296, 1304 (11th Cir. 2002). We need not consider Downing's argument to the extent it is based on fictitious authorities.

Second, even considering Downing's arguments, the district court properly reviewed Downing's standing to bring the lawsuit before analyzing the underlying merits of her claims. Standing presents a threshold question of subject matter jurisdiction and "must be addressed prior to and independent of the merits of a party's claims." *Bochese v. Town of Ponce Inlet*, 405 F.3d 964, 974 (11th Cir. 2005) (citation modified). "[A] federal court is obligated to inquire into subject matter jurisdiction *sua sponte* whenever it may be lacking." *Id.* (quoting *Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 509 (11th Cir. 1999)). The district court fulfilled its duty to assure

itself that it had jurisdiction by conducting its *sua sponte* standing inquiry, and we affirm its decision to do so.

Next, in conducting its standing analysis, the district court did not abuse its discretion by taking judicial notice of relevant facts. Rule 201(b) of the Federal Rules of Evidence "provides for taking judicial notice of facts that are not subject to reasonable dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *Bryant v. Avado Brand, Inc.*, 187 F.3d 1271, 1278 (11th Cir. 1999). A court may take "notice of another court's order for the limited purpose of recognizing the judicial act that the order represents or the subject matter of the litigation and related filings." *In re Delta Res., Inc.*, 54 F.3d 722, 725 (11th Cir. 1995) (citation modified).

Here, the district court took judicial notice of facts that "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned," Fed. R. Evid. 201(b)(2)—publicly available court filings memorializing the "judicial act[s]" of a state court, *In re Delta Res., Inc.*, 54 F.3d at 725. To determine that Downing's father was married to Brathwaite-Bussey, the district court took judicial notice of an exemplified copy of the couple's marriage license and certificate. And to conclude that Downing was not the administrator of her father's estate, the district court referred to the Fulton County Probate Court's order appointing Luanne Bonnie to that role. These records had already been filed as exhibits in another case pending before the same district judge.

See United States v. Glover, 179 F.3d 1300, 1302 n.5 (11th Cir. 1999) ("a court may take judicial notice of its own records . . . .").

Finally, we reject Downing's contention that she was denied an adequate opportunity to be heard. Although it is true that "[i]f the court takes judicial notice before notifying a party, the party, on request, is . . . entitled to be heard," Fed. R. Evid. 201(e), we conclude that Downing had the chance to do so here. *See Turner v. Sec'y, Dep't of Corr.*, 991 F.3d 1208, 1212 (11th Cir. 2021) (holding that the opportunity to reopen the case provided sufficient opportunity to be heard). The district court dismissed Downing's complaint without prejudice, and she could have moved to reopen under Federal Rules of Civil Procedure 59(e) or 60(b). *See* Fed. R. Civ. P. 59(e) (providing that a motion to alter or to amend the judgment may be filed within 28 days after judgment is entered); Fed. R. Civ. P. 60(b) (setting forth the grounds upon which a district court may relieve a party from a final judgment, including "mistake" or "inadvertence"). Because Downing could have challenged the propriety of taking judicial notice by moving to reopen, we conclude that she had the opportunity to be heard under Federal Rule of Evidence 201(e).

IV.

For the foregoing reasons, the district court's dismissal of Downing's complaint is **AFFIRMED**.

Separately, although we liberally construe pro se pleadings, pro se litigants are still required to conform to procedural rules, *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (citing *Loren*,

309 F.3d at 1304), which include the duty of candor to the court, *see* Fed. R. Civ. P. 11(b). By filing an appellate brief replete with fictitious cases and made-up quotations, we conclude that Downing violated this obligation. Accordingly, we strike those portions of her brief containing fabricated legal authorities as improper.