

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14153
Non-Argument Calendar

MOHAMED HUSSEIN ASKER,

Plaintiff-Appellant,

versus

BANK OF AMERICA, N.A.,
CITIMORTGAGE, INC.,
CITIGROUP INC.,
U.S. BANK NATIONAL ASSOCIATION,
U.S. BANCORP, et al.,

Defendants-Appellees,

BAC HOME LOANS SERVICING, INC., et al.,

Defendants.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:24-cv-05323-LMM

Before NEWSOM, BRASHER, and ANDERSON, Circuit Judges.

PER CURIAM:

Mohamed Hussein Asker, proceeding pro se, appeals the district court’s orders dismissing his complaint—asserting 29 state and federal law claims for residential mortgage fraud, racketeering, antitrust, securities, and due process violations—denying him leave to amend his complaint, and denying in part his motion for reconsideration. He argues on appeal that the district court abused its discretion in denying him leave to amend “on the merits” while expressly not considering the substance of the proposed amendments. He also raises arguments related to the applicability of the state and federal RICO statutes of limitations as applied to his claims.

I. DISCUSSION

A. Leave to Amend Asker’s Proposed (Seventh) Amended Complaint

We review a district court’s denial of a motion to amend a complaint for abuse of discretion. *Doe, 1 v. United States*, 166 F.4th 1255, 1259 (11th Cir. 2026). If reviewing a denial of leave on the basis of futility, we conduct de novo review because futility is a legal conclusion that the proposed amended complaint would fail at the motion-to-dismiss or summary judgment stage. *L.S. ex rel. v.*

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Hernandez v. Peterson, 982 F.3d 1323, 1328, 1332 (11th Cir. 2020). We only review claims adequately briefed on appeal, however. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014). A party fails to adequately brief a claim, and thereby abandons the issue on appeal, when he does not “plainly and prominently” raise it or raises it only in a “perfunctory manner” without supporting arguments and authority. *Id.* (quotation marks omitted).

The federal rules permit a party to amend his pleading once “as a matter of course” and in all other cases with the opposing party’s written consent or the court’s leave. Fed. R. Civ. P. 15(a)(1)–(2). The court should “freely” give leave to amend when “justice so requires.” *Id.* 15(a)(2). The United States Supreme Court interpreted this directive as a “mandate . . . to be heeded” with only a few exceptions. *Foman v. Davis*, 371 U.S. 178, 182 (1962). The *Foman* court described the following legitimate reasons as proper grounds to deny leave to amend: “undue delay, bad faith . . . , repeated failure to cure deficiencies by amendments previously allowed, . . . futility of amendment.” *Id.* It summarized that, while denial of leave to amend is “within the discretion” of the district court, outright refusal to grant leave without any justifying reason is an abuse of that discretion. *Id.*

An amendment filed as “a matter of course” does not count towards a “repeated failure to cure” rationale when denying leave to amend. See *Bryant v. Dupree*, 252 F.3d 1161, 1163–64 (11th Cir. 2001) (holding that a district court’s “failure to cure” rationale when denying plaintiffs’ motion for leave to amend was improper

when the plaintiffs had only filed a single amended complaint in the case and it was filed “as a matter of course” under Fed. R. Civ. P. 15(a)(1)).

Here, Asker fails to show an abuse of discretion in the district court’s denying him leave to amend. The court below properly amended its previous order to reflect that it adjudicated a live controversy—i.e. holding that Asker’s multiple previous failures to cure his shotgun complaint and amended complaints warranted dismissal of the case. Thus, on this “repeated failure to cure” ground, the district court properly held that Asker should not be allowed to submit a seventh amended complaint. It was in this sense that it was a ruling “on the merits.” Contrary to Asker’s arguments on appeal, however, the court did not need to evaluate the substance of that proposed complaint because it clearly denied him leave to amend on the permissible ground of his repeated failure to cure deficiencies as previously allowed by two orders. Additionally, Asker has abandoned any challenge to the district court’s underlying order dismissing his complaint because he fails to raise any nonwaived claim against it.

B. RICO Statutes of Limitations

A party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation waives the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions if proper notice is given. 11th Cir. R. 3-1. But even without a proper objection,

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we may still review such factual and legal conclusions for plain error if necessary in the interests of justice. *Id.* But plain error review “rarely applies in civil cases.” *Smith v. Marcus & Millichap, Inc.*, 106 F.4th 1091, 1099 (11th Cir. 2024) (quotation marks omitted). When it does apply, we have required a greater showing of error than in criminal appeals. *Id.* Additionally, this rare exception applies only when a party argues in their initial brief on appeal that reviewing their waived objections is necessary and in the interests of justice. *Id.*

Here, Asker waived his claims that the magistrate judge improperly applied the state and federal RICO statutes of limitation because he failed to object to the R&R’s findings on the same in his “objections.” The document he filed in response to the R&R was styled as objections, but instead of identifying an error in the magistrate judge’s reasoning, he used the filing to explain how the proposed seventh amended complaint would cure all identified deficiencies. This does not constitute an “objection” within the meaning of Rule 3-1. Accordingly, Asker has waived his claim with respect to the RICO statutes of limitation. Additionally, because Asker does not argue that reviewing his waived objection is necessary and in the interests of justice, he fails to trigger the plain-error exception to the rule.

AFFIRMED.