

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14176
Non-Argument Calendar

VARONDRIA WILLIAMS,
MICHAEL WILLIAMS,

Plaintiffs-Appellants,

versus

EDWARD J. FAY,
FAY SERVICING, LLC,
WELLS FARGO BANK, N.A.,
d.b.a. Wells Fargo Home Mortgage,
U.S. BANK TRUST NATIONAL ASSOCIATION TRUSTEE,
CITIGROUP MORTGAGE LOAN TRUST 2023-A,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:24-cv-81354-JEM

Before BRASHER, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Varondria and Michael Williams, acting pro se, appeal the district court's denial of their Federal Rule of Civil Procedure 60(b) motion for relief. They brought action against an individual and several financial institutions for alleged violations of federal and state law. The district court dismissed the Williamses' complaint for failure to state a claim. Five months later, the Williamses filed a Rule 60(b) motion for relief from the judgment, alleging numerous errors of law and fact. The magistrate judge recommended denying the motion as untimely and meritless. The district court adopted the magistrate judge's recommendation in full. We affirm.

I.

The Williamses acquired a home mortgage from Wells Fargo Bank, with which they executed a promissory note. According to their agreement with Wells Fargo, they were required to pay for private mortgage insurance as long as the principal balance of their loan exceeded 80% of their home's original value, with an automatic termination date of 2027.

During the COVID-19 pandemic, the Williamses and Wells Fargo modified the loan agreement to defer payments until the loan's maturity date. Wells Fargo recalculated the PMI termination date accordingly. Around this time, Wells Fargo also conducted an appraisal and valued the home at \$450,000.

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The Williamses believed that the loan modification and appraisal relieved them of their duty to make PMI payments. After their loan servicer declined to cancel the PMI, the Williamses first filed a complaint with the Consumer Financial Protection Bureau and then sued in federal district court. The Williamses alleged violations of the Homeowners Protection Act, Fair Debt Collection Practices Act, and Real Estate Settlement Procedures Act, as well as state law.

The defendants moved to dismiss. The district court granted their motion, holding that the Williamses were required to make the PMI payments. The court concluded that, under the HPA, PMI cancellation occurs only when the principal reaches 80% of the property's original value, and that "a loan modification does not otherwise alter the situation." Doc. 55 at 2. Because the Williamses "[d]id not cite to any contrary legal authority or otherwise make any persuasive argument," and because their principal never fell below the 80% threshold, the court dismissed their complaint. *Id.* In reaching its conclusion, the court relied on portions of the loan agreement provided by the defendants in their motion to dismiss.

Over five months later, the Williamses filed a Rule 60(b) motion for relief from the district court's judgment. Their motion cited alleged "errors of law, mistake of facts, newly discovered evidence, denial of due process" and other grounds for relief.

The district court referred the Williamses' motion to a magistrate judge, who issued a report and recommendation. The magistrate judge concluded that the motion rehashed the Williamses'

previous arguments and ignored the legal authority cited in the district court's order. The magistrate judge also concluded that the motion was untimely because the Williamses failed to explain why they waited more than five months to file.

The Williamses filed their objections to the report. They argued that their five-month delay was caused by the district court's reliance on "materials outside the pleadings," which they believed required them to conduct discovery. Specifically, the Williamses spent time identifying the owner of their promissory note and gathering "PMI-recalculation records."

In a one-page order, the district court overruled the Williamses' objections and adopted the magistrate's report and recommendation in full. The Williamses timely appealed.

II.

A district court's denial of a Rule 60(b) motion is reviewable for an abuse of discretion. *Am. Bankers Ins. Co. of Fla. v. Nw. Nat. Ins. Co.*, 198 F.3d 1332, 1338 (11th Cir. 1999). An abuse of discretion occurs when a district court commits a clear error of judgment or applies the wrong legal standard. *Arthur v. Thomas*, 739 F.3d 611, 628 (11th Cir. 2014).

III.

The Williamses do not challenge the district court's dismissal of their complaint. Instead, they argue that the district court erred in denying their Rule 60(b) motion for twelve reasons, including that their motion was timely. We disagree.

Under Rule 60(b), the district court may grant a party relief from an order if the party can demonstrate excusable neglect, newly discovered evidence, misconduct by an opposing party, if the judgment is void, or any other reason justifying relief. FED. R. CIV. P. 60(b)(1)–(4), (6). The Rule provides that a motion “must be made within a reasonable time.” *Id.* 60(c)(1). Additionally, motions under subsections (1) through (3) must be made “no more than a year after entry of the judgment or order.” *Id.*

Whether a Rule 60(b) motion was made “within a reasonable time” depends on “the circumstances of each case.” *BUC Int’l Corp. v. Int’l Yacht Council Ltd.*, 517 F.3d 1271, 1275 (11th Cir. 2008). We consider, among other factors, prejudice and “whether a good reason has been presented for failing to take action sooner.” *Id.* (citation modified). We have previously considered unreasonable a plaintiff’s decision to wait five months before filing without providing an “acceptable reason” for the delay. *Stansell v. Revolutionary Armed Forces of Colombia*, 771 F.3d 713, 737-38 (11th Cir. 2014).

The Williamses did not file their Rule 60(b) motion within a reasonable time. They waited over five months to file in response to the district court’s three-page order dismissing the case on a single ground. *Cf. id.* They raise three arguments to resist this conclusion, but none of their reasons for delay survive scrutiny.

First, the Williamses say that their delay was due to “the court’s own error and the absence of discovery,” but they were not permitted to engage in discovery at the pleading stage. *See Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997)

(“[N]either the parties nor the court have any need for discovery before the court rules on the motion [to dismiss].”). They contend that the district court’s consideration of the missing loan terms supplied by the defendants converted the motion to dismiss into one for summary judgment. But, because the Williamses supplied portions of the loan agreement with their complaint, the defendants were permitted to provide the rest in their motion to dismiss. *Swinford v. Santos*, 121 F.4th 179, 187 (11th Cir. 2024), *cert. denied*, 146 S. Ct. 204, 223 L. Ed. 2d 64 (2025) (a district court may consider evidence attached to a motion to dismiss without converting the motion into one for summary judgment if the document is central to the plaintiff’s claim and is undisputed). In short, the Williamses’ efforts to conduct discovery were procedurally improper.

Second, the Williamses argue that they spent time seeking “a complete copy of the promissory note . . . to determine the identity of the actual note holder.” Appellants’ Br. at 17. In their Rule 60(b) motion, they said they learned only after dismissal that Wells Fargo was the note holder. But, aside from being irrelevant to the issues raised in the dismissal order, the Williamses already had a copy of the note, which clearly lists Wells Fargo as the lender. The other piece of evidence they sought—“servicer PMI-recalculation records”—was also already in their possession. *See* Doc. 56-1 at 2. Because the Williamses’ efforts were unnecessary, their five-month delay was unreasonable.

Third, the Williamses argue that their motion was timely because Rule 60(c) prohibits certain motions from being filed more

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than a year after entry of judgment. The Williamses believe that this provision acts as a safe harbor for motions filed within a year. But the plain text of the Rule requires a motion be made within a reasonable time *and* no more than a year after entry. FED. R. CIV. P. 60(c)(1). We have previously held that a motion may be untimely even if filed within “within one year of the final order.” *Paddilla v. Smith*, 53 F.4th 1303, 1311 n.22 (11th Cir. 2022).

Consequently, the district court did not commit a clear error of judgment in concluding that the Williamses’ Rule 60(b) motion was untimely. *See Arthur*, 739 F.3d at 628. It therefore did not abuse its discretion in denying their motion.

Finally, the Williamses correctly argue that Rule 60(b)(4) motions, which challenge void judgments, are not subject to the timeliness restriction. *See Stansell*, 771 F.3d at 738. But Rule 60(b)(4) applies only where the district court lacked jurisdiction or the party was deprived of notice or the opportunity to be heard. *Bainbridge v. Governor of Fla.*, 75 F.4th 1326, 1335 (11th Cir. 2023). Neither occurred here. The Williamses’ only argument to the contrary is that the district court was biased against them because it ruled against them. The Williamses’ judgment is not void simply because they believe it was erroneous. *See id.*

IV.

AFFIRMED.