

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14390
Non-Argument Calendar

EARL JAMES GOBIN,
Retired,

Plaintiff-Appellant,

versus

SATYA NADELLA,
CEO,

Defendant- Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:25-cv-00967-ELR

Before LUCK, LAGOA, and KIDD, Circuit Judges.

PER CURIAM:

Earl James Gobin, appearing pro se, appeals the dismissal of a suit alleging censorship, discrimination, and retaliation that he brought under the First Amendment, the Americans with Disabilities Act (“ADA”), the Rehabilitation Act of 1973, the Elder Abuse Prevention and Prosecution Act (“EAPPA”), the Consumer Review Fairness Act, and Georgia’s “Elder Law.” The district court found that Gobin failed to state a claim for relief under any of these laws and dismissed the case pursuant to Federal Rule of Civil Procedure 12(b)(6). After careful review, we affirm.

I. BACKGROUND

Gobin is retired and has chronic disabilities that have left him confined to his home. He spends much of his time engaging in advocacy online: For years, he posted on LinkedIn “daily . . . to create . . . awareness of human rights abuse, crimes against humanity, and ethnic cleansing across every corner of the [g]lobe” and engage his “innate passion for the empowerment and progress of humanity and humanism.” LinkedIn was Gobin’s “only platform” for his advocacy. Around the beginning of 2025, his LinkedIn account was shut down, allegedly because Gobin’s “posts did not meet [LinkedIn’s] standards and guidelines” and he “continued to violate their policy and standards.” Gobin “went through the normal process of trying to get [his] account reopened,” as he had done with success in the past. However, this time, “it felt very different,” and LinkedIn did not reinstate Gobin’s account.

Gobin then filed a lawsuit in state court in Gwinnett County, Georgia, relating to the deactivation of his LinkedIn account. He

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named Satya Nadella, the CEO of Microsoft, as the sole defendant. Nadella removed the case to the Northern District of Georgia. Nadella then filed a motion to dismiss, alleging improper service, failure to state a claim, and lack of personal jurisdiction.

That same day, Gobin filed a 166-page amended complaint. The amended complaint asserted that “[f]ederal laws, such as the ADA and the Rehabilitation Act, protect people like [Gobin] with disabilities from discrimination, bias and ensure they have equal opportunities to express themselves in both public and private spaces” and referenced the “freedom of speech, expression, and [F]irst [A]mendment rights as enshrined in our [C]onstitution.” Sometime between the initiation of the lawsuit and the filing of the amended complaint, LinkedIn reinstated Gobin’s account. Gobin interpreted this as an admission of guilt, alleging that the reinstatement “serve[d] to reconfirm this obvious contrived conspiracy by the defendant” because, in Gobin’s view, only Nadella could have effectuated such a reinstatement.

In addition to assertions of rights under the First Amendment, the ADA in general, and the Rehabilitation Act, Gobin also pleaded additional statutory counts against Nadella: violation of Title V of the ADA for disabling his LinkedIn account “based on inherent bias” against him as a “certified disabled individual in order to silence and censor”; violation of the EAPPA for deliberately conspiring against and censoring him; violation of the Consumer Review Fairness Act for silencing and censoring him for calling out “ALL big tech CEO[s]” complicity with genocide, and violation of

Georgia’s “special laws (Aka Elder Law)” for exploiting him as a disabled senior. The amended complaint did not seek damages or specify a prayer for relief.

Nadella filed a motion to dismiss the amended complaint. Nadella again alleged improper service of the amended complaint, lack of personal jurisdiction, and failure to state a claim. Nadella then filed a motion to stay discovery and related proceedings pending the outcome of his motion to dismiss the amended complaint, which the district court granted. After an exchange of filings, including a motion by Gobin for summary judgment, an opposition by Nadella, and motions to supplement by Gobin, Gobin filed a motion for leave to file an “amended Statement of Claim.” In this motion, Gobin newly specified damages, including financial loss, loss of consulting revenue opportunities, loss of brand equity, emotional distress and psychological harm, and adverse impacts on his physical and mental health. He sought compensatory and punitive damages totaling \$2 million, as well as declaratory and injunctive relief and fees. Nadella opposed the motion for leave to file an amended statement of claim.

The district court dismissed the amended complaint without prejudice. In its dismissal order, the district court also denied Gobin’s motion to file an amended statement of claim, finding that amendment would be futile. It denied Gobin’s remaining motions as moot.

This appeal followed.

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II. STANDARD OF REVIEW

We review a district court's ruling on a Rule 12(b)(6) motion de novo. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003). The complaint is viewed in the light most favorable to the plaintiff, and all of the plaintiff's well-pleaded facts are accepted as true. *Am. United Life Ins. Co. v. Martinez*, 480 F.3d 1043, 1057 (11th Cir. 2007). Further, "[i]n the case of a *pro se* action . . . the court should construe the complaint more liberally than it would formal pleadings drafted by lawyers." *Powell v. Lennon*, 914 F.2d 1459, 1463 (11th Cir. 1990).

To survive a motion to dismiss under 12(b)(6), the pleading "must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation modified). "While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (alteration in original) (citation modified). "Factual allegations must be enough to raise a right to relief above the speculative level" *Id.* At the pleading stage, Federal Rule of Civil Procedure 8(a)(2) requires that "the 'plain statement' possess enough heft to 'sho[w] that the pleader is entitled to relief.'" *Id.* at 557 (alteration in original) (citation modified).

“We generally review the denial of a motion to amend a complaint for an abuse of discretion” but review questions of law and futility de novo. *Williams v. Bd. of Regents of Univ. Sys. of Ga.*, 477 F.3d 1282, 1291 (11th Cir. 2007); *Cockrell v. Sparks*, 510 F.3d 1307, 1310 (11th Cir. 2007).

Finally, “as a court of appeals, we review claims of judicial error in the trial courts.” *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1331 (11th Cir. 2004). However, we have “repeatedly held that an issue not raised in the district court and raised for the first time in an appeal will not be considered by this [C]ourt.” *Id.* (citation omitted).

III. DISCUSSION

A. *Arguments Not Properly Before This Court*

As an initial matter, on appeal, Gobin raises several arguments that are not properly before this Court and are apparently based on a mistaken understanding of the record. His extensive argument regarding proper service is not relevant here because the district court did not reach that issue in dismissing the complaint.

Likewise, Gobin’s argument that removal from state court constituted “jurisdictional abuse” is not properly before this Court because Gobin never filed a motion for remand and the district court never considered this issue. *Id.* Next, his argument that the district court erred by analyzing a superseded complaint is misplaced, because the district court specifically analyzed and dis-

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missed the amended complaint that superseded the original. Similarly, the district court did in fact address Gobin’s ADA and Georgia “Elder Law” claims in its dismissal order, so his argument that it procedurally erred by failing to do so is incorrect.

Instead, the only basis for the district court’s dismissal, and thus the only issue we address, is failure to state a claim. *Id.* The district court addressed Gobin’s First Amendment, ADA, Rehabilitation Act, EAPPA, Consumer Review Fairness Act, and Georgia “Elder Law” claims in turn, and we will do the same. We then turn to Gobin’s argument that he should have been allowed to file an “amended Statement of Claim.”

B. First Amendment Claim

The First Amendment states in relevant part that “Congress shall make no law . . . abridging the freedom of speech” U.S. CONST. amend. I. This clause—the Free Speech Clause—protects individuals from, among other things, retaliatory action by government officials for engaging in protected speech. *Bell v. Sheriff of Broward Cnty.*, 6 F.4th 1374, 1376 (11th Cir. 2021). Generally, “the Free Speech Clause prohibits only *governmental* abridgment of speech” and “does not prohibit *private* abridgment of speech.” *Manhattan Cmty. Access Corp. v. Halleck*, 587 U.S. 802, 808 (2019) (emphasis in original). However, the Supreme Court has held that:

a private entity can qualify as a state actor in a few limited circumstances—including, for example, (i) when the private entity performs a traditional, exclusive public function, (ii) when the government

compels the private entity to take a particular action, or (iii) when the government acts jointly with the private entity.

Id. at 809.

In his amended complaint, Gobin alleges that Nadella, in his capacity as CEO of Microsoft, retaliated against Gobin for his activities on LinkedIn in violation of the First Amendment. Nowhere in the amended complaint does Gobin allege that Nadella was a government official when he allegedly retaliated against Gobin for his protected speech; indeed, the amended complaint's theory is premised on Nadella's position as the CEO of Microsoft.

Gobin also does not allege facts that could support a finding that Nadella fits within any of the three exceptions under which the First Amendment applies to private actors. He does not allege that, as CEO of Microsoft, Nadella performed a traditional, exclusive public function; was compelled by the government to take a particular action; or acted jointly with the government. Though the Supreme Court has referred to social media as "the modern public square," this does not make operating a social-media company a traditional governmental function. *See Packingham v. North Carolina*, 582 U.S. 98, 107–08 (2017) (holding that a state law barring access for certain sex offenders to social media violated the First Amendment). To qualify as a traditional public function, "the government must have traditionally *and* exclusively performed that function." *Halleck*, 587 U.S. at 809 (emphasis in original). Operating a social-media company such as LinkedIn does not fit into that category. *See Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2401–02 (2024).

Accordingly, even under a liberal construction, *see Powell*, 914 F.2d at 1463, Gobin’s amended complaint fails to allege sufficient factual matter to assert a plausible First Amendment claim because it does not establish that the First Amendment in any way applies to Nadella. *Ashcroft*, 556 U.S. at 678. We therefore affirm the district court’s dismissal of Gobin’s First Amendment claim.

C. ADA Claims

The amended complaint alleges retaliation in violation of Title V of the ADA. Title V of the ADA prohibits any person from “discriminat[ing] against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.” 42 U.S.C. § 12203(a). “A retaliation claim under Title V is predicated on an individual suffering a harm post-asserting rights under a separate ADA provision.” *Dupree v. Owens*, 92 F.4th 999, 1007 (11th Cir.), *cert. denied*, 145 S. Ct. 225 (2024). Although the amended complaint alleges retaliation under Title V, it does not allege that Gobin suffered harm “post-asserting rights under a separate ADA provision.” *Id.* The amended complaint therefore fails to state a claim under Title V of the ADA.

The amended complaint also references the ADA more generally. To the extent that it asserts claims under Titles II or III of the ADA, those claims are also insufficiently pleaded. Title II of the ADA provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be

denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such activity.” 42 U.S.C. § 12132; *id.* § 12131(1) (defining “public entity” as a state or local government or their instrumentality). But the amended complaint does not allege that Nadella was a public entity who may bear liability for denial of the benefits of public services, programs, or activities. The amended complaint therefore fails to state a claim under Title II.

Title III of the ADA provides that “[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” *Id.* § 12182(a). The amended complaint alleges that the deactivation of Gobin’s LinkedIn account was “based on inherent bias” against him as a “certified disabled individual in order to silence and censor [him].” But these conclusory statements are insufficient to establish a causal connection between Gobin’s disability and the LinkedIn deactivation. Gobin’s ADA claims are therefore speculative at best and are factually insufficient to avoid dismissal. *Twombly*, 550 U.S. at 555; *Ashcroft*, 556 U.S. at 678. All claims raised by Gobin under the ADA were therefore properly dismissed as insufficiently pleaded.

D. Rehabilitation Act Claim

The district court also did not err in dismissing Gobin’s Rehabilitation Act claim. The amended complaint references this law

only in passing, stating that “[f]ederal laws, such as . . . the Rehabilitation Act, protect people like [Gobin] with disabilities from discrimination, bias and ensure they have equal opportunities to express themselves in both public and private places.” We construe the amended complaint liberally as attempting to raise a claim under the Rehabilitation Act of 1973.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against those with disabilities “in federally funded programs.” *Se. Cmty. Coll. v. Davis*, 442 U.S. 397, 400 (1979); *see U.S. Dep’t of Transp. v. Paralyzed Veterans of Am.*, 477 U.S. 597, 604 (1986); 29 U.S.C. § 794. Gobin does not allege that Microsoft receives any federal funding. He therefore fails to state a claim under section 504 of the Rehabilitation Act.

E. EAPPA Claim

The text of the EAPPA does not provide a private right of action. *See* 34 U.S.C. § 21711. “Like substantive federal law itself, private rights of action to enforce federal law must be created by Congress.” *Love v. Delta Air Lines*, 310 F.3d 1347, 1352 (11th Cir. 2002) (citation omitted). To determine if a statute creates a private right of action, we must first look to the statutory text for “‘rights-creating’ language.” *Id.* (quoting *Alexander v. Sandoval*, 532 U.S. 275, 288 (2001)). We have noted that a law’s “silence regarding the existence of a private right of action speaks volumes, because Congress can simply say it is creating a private right of action if it wants to do so.” *Turbeville v. Fin. Indus. Regul. Auth.*, 874 F.3d 1268, 1276 (11th Cir. 2017). Second, we “examine the statutory structure

within which the provision in question is embedded,” as the provision of a “discernible enforcement mechanism” suggests Congress’s intent to preclude other means of enforcement. *Love*, 310 F.3d at 1353. Third, only if the statutory text and structure are inconclusive, we will look at legislative history and historical context to determine if Congress intended to create a private right of action. *Id.*

Since the EAPPA does not contain “rights-creating” language in the statute, *id.* at 1352, we turn to the statutory structure. The EAPPA provides a mechanism for the United States Attorney General and the Federal Trade Commission to support federal cases involving elder justice, including the designation of elder justice coordinators and investigative support for crimes related to elder abuse. *See* 34 U.S.C. § 21711. It also directs the Attorney General to consult with local law enforcement agencies to “establish best practices for data collection to focus on elder abuse” and assist state, local, and tribal governments in adopting said practices. *Id.* § 21721(a). None of this implies any intent on the part of Congress to create a private right of action. Accordingly, we conclude that no part of the EAPPA enables the federal courts to address Gobin’s alleged grievance against Nadella under this law.

F. Consumer Review Fairness Act Claim

Likewise, the Consumer Review Fairness Act does not establish a private right of action. The Consumer Review Fairness Act of 2016 invalidates “contracts that impede consumer reviews.”

15 U.S.C. § 45b(b). The statute tasks the Federal Trade Commission with enforcement “in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. § 41 et seq.) were incorporated into and made a part of this Act.” *Id.* § 45b(d)(2)(A). It also provides an enforcement mechanism through state attorneys general or other state consumer protection officers, subject to intervention from the Federal Trade Commission. *Id.* § 45b(e). We have noted that a private right of action does not exist under the Federal Trade Commission Act. *Jeter v. Credit Bureau, Inc.*, 760 F.2d 1168, 1174 n.5 (11th Cir. 1985). The language of the Consumer Review Fairness Act likewise makes it clear that no private right of action exists under that statute. Accordingly, Gobin fails to state a claim under the Consumer Review Fairness Act.

G. Georgia “Elder Law” Claims

The district court dismissed Gobin’s claims under what he called Georgia’s “special laws (Aka Elder Law)” because he had not identified a specific statutory provision providing a private right of action for the alleged elder abuse. Without knowing the elements of a claim, the district court could not determine if the facts in the amended complaint provided grounds for Gobin’s entitlement to relief. *See GJR Invs., Inc. v. Cnty. of Escambia*, 132 F.3d 1359, 1369 (11th Cir. 1998), *overruled in part on other grounds by Randall v. Scott*, 610 F.3d 701, 709 (11th Cir. 2010). Gobin’s reference to “Georgia State Elder Protection” and O.C.G.A. § 30-5-1 on appeal do not

cure the deficiency at the pleading stage, where Gobin was obligated to provide a plain statement showing how he was entitled to relief. Fed. R. Civ. P. 8(a)(2); *see Ashcroft*, 556 U.S. at 677–78. Accordingly, we find that the district court did not err in dismissing Gobin’s claims under Georgia’s “Elder Law.”

H. Gobin’s Motion for Leave To Amend

“A party may amend its pleading once as a matter of course no later than . . . 21 days after serving it,” or, if a responsive pleading is required, “21 days after service of a responsive pleading or . . . Rule 12(b), (e), or (f) motion.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” *Id.* 15(a)(2). A district court should freely give leave to amend “when justice so requires.” *Id.*; *Perez v. Wells Fargo N.A.*, 774 F.3d 1329, 1340 (11th Cir. 2014). A pro se plaintiff “‘must be given at least one chance to amend the complaint before the district court dismisses the action with prejudice’—at least . . . where ‘a more carefully drafted complaint might state a claim.’” *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1132 (11th Cir. 2019) (quoting *Woldeab v. Dekalb Cnty. Bd. of Educ.*, 885 F.3d 1289, 1291 (11th Cir. 2018)).

In *Woldeab*, we held that a district court abused its discretion by dismissing a pro se plaintiff’s case with prejudice because the plaintiff never clearly indicated that he did not want to amend his complaint, and a more carefully crafted complaint might have been able to state a claim. 885 F.3d at 1291–92. However, leave to amend need not be granted when amendment would be futile. *Hall v.*

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United Ins. Co. of Am., 367 F.3d 1255, 1262–63 (11th Cir. 2004). “A proposed amendment may be denied for futility ‘when the complaint as amended would still be properly dismissed.’” *Coventry First, LLC v. McCarty*, 605 F.3d 865, 870 (11th Cir. 2010) (quoting *Cockrell*, 510 F.3d at 1310).

The district court did not err in refusing to grant Gobin leave to amend again because amendment would be futile. The “Statement of Claim” contained within Gobin’s motion adds no new allegations that would push any of his causes of action over the line into the realm of plausibility. *See Ashcroft*, 556 U.S. at 678. Moreover, the district court dismissed the amended complaint without prejudice, meaning Gobin retains the option to initiate a new case with a modified complaint. But he will face the same pleading hurdles if he pursues the same claims.

IV. CONCLUSION

We **AFFIRM** the dismissal of Gobin’s amended complaint without prejudice and the dismissal of his remaining motions as moot.¹

¹ On September 2, 2026, Gobin filed a motion to supplement the record on appeal with, or, in the alternative, for this Court to take “limited judicial notice” of two documents: a letter to Nadella and the president of Microsoft from the Abolitionist Law Center and other organizations alleging breaches of various U.S. and international laws, and the district court’s order dismissing Gobin’s amended complaint. We note that the district court’s dismissal order is already part of the record on appeal. The proffered material otherwise would not aid the Court in making an informed decision on the issues before it, and accordingly this motion is DENIED. *See CSX Transp., Inc. v. City of Garden City*,

235 F.3d 1325, 1330 (11th Cir. 2000); *Schwartz v. Millon Air, Inc.*, 341 F.3d 1220, 1225 n.4 (11th Cir. 2003).