

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10004
No. 26-10927
Non-Argument Calendar

GLORIA EVANS MICKENS,
DORIS ENZOR,
OTIS EVANS,

Plaintiffs-Appellants,

versus

CIRCUIT COURT SECOND JUDICIAL CIRCUIT, et al.,
Defendants,

FRANK ALLMAN,
Chief Judge of the Circuit Court,
DAVID FRANK,
Circuit Court Judge,
DISTRICT COURT OF APPEAL,
TIMOTHY D OSTERHAUS,
Chief Judge,
TYREC DE'SHUN BAKER, et al.,

Defendants-Appellees.

Appeals from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:25-cv-00102-AW-MJF

Before LUCK, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Otis Evans appeals the district court's dismissal of his amended complaint and its denial of his post-judgment motions.¹ After careful review, we affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Evans brought this lawsuit against his former attorneys, state judges, state agencies, law enforcement officials, and others, asserting various claims of fraud and misconduct in probate proceedings related to the death of his relative, Bobby Evans, in a traffic accident. The magistrate judge struck the complaint because it was a shotgun pleading.

The complaint, the magistrate judge explained, failed to state a claim upon which relief could be granted because it was filled with conclusory allegations of harm and did not provide a short and plain statement of what each defendant did and how their

¹ Otis Evans brought this case together with Gloria Evans Mickens and Doris Enzor. Since they appealed jointly and make the same arguments, we'll refer to them collectively as Evans.

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actions were connected to each of its eighteen claims. The magistrate judge granted Evans leave to amend, provided detailed instructions for how to cure the defects identified in the complaint, and cautioned that failure to comply with these instructions could result in dismissal of the lawsuit.

Evans came back with an amended complaint. The gist was similar: the same cast of defendants—Evans’s former attorneys, state judges, state agencies, law enforcement officials and others—conspired to fraudulently settle claims belonging to Bobby Evans’s estate, to remove Evans as the estate’s personal representative, and to terminate Bobby Evans’s family members as the estate’s beneficiaries. Evans asserted that he was entitled to damages—north of \$500 million—for eighteen causes of action under 42 U.S.C. sections 1981, 1983, and 1985, including constitutional violations, discrimination, fraud, negligence, wrongful death, intentional infliction of emotional distress, and civil conspiracy.

The state judges filed motions to dismiss, arguing that they were entitled to judicial immunity. The district court granted the motion because the judicial defendants were immune from suit. Evans appealed, but we dismissed the appeal for lack of jurisdiction because the district court’s order was non-final, not immediately appealable under the collateral order doctrine, and not certified for appeal by the district court. *See Mickens v. Cir. Ct. Second Jud. Cir.*, No. 25-12141, 2026 WL 586555, at *1 (11th Cir. Mar. 3, 2026).

While the appeal was still pending, Evans’s former attorneys also filed motions to dismiss, arguing that the amended complaint

remained a shotgun pleading. The magistrate judge agreed. The amended complaint, he explained, “asserted eighteen claims” against various defendants “but did not connect the facts alleged in the statement of facts to any cause of action.” Instead, the amended complaint was “replete with conclusory and vague allegations” that the defendants conspired with one another “to commit fraud, theft, fraud upon the court, conspiracy, fraudulent misrepresentation, fraudulent inducement, fraudulent conversion, false pretenses, forgery, scheme to defraud, . . . treason against the constitution[,] and other acts of intentional misconduct,” without ever identifying how the misconduct happened or who was responsible for it. The magistrate judge recommended that the district court grant the attorneys’ motions to dismiss and dismiss the action against all remaining defendants.

That’s what the district court did. It adopted the magistrate judge’s report, concluding that the amended complaint was a shotgun pleading. And because Evans “already had an opportunity to correct the problems and failed to do so,” the district court dismissed the case with prejudice as to all defendants.

Evans filed a motion to reconsider, asking the court to set aside its order, grant leave to amend, and require the magistrate judge to recuse himself because he fraudulently “sabotage[d]” the amended complaint. The district court denied the motion. Evans appealed.

Evans then filed a bevy of post-judgment motions, including two motions to set aside the judgment for fraud on the court, a

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motion for relief from judgment because it was void, and a motion for an evidentiary hearing on the claims of fraud on the court. The district court denied these motions, and Evans appealed that denial too.

We consolidated Evans’s appeal of the district court’s order dismissing the complaint and his appeal of the order denying the post-judgment motions.

DISCUSSION

Evans argues that: (1) the district court didn’t have jurisdiction to dismiss the amended complaint while the appeal of the judicial immunity order was pending; (2) the district court erred in concluding that the state judges had judicial immunity; (3) the district court erred in dismissing the amended complaint as a shotgun pleading; (4) the district court erred in failing to hold an evidentiary hearing on his fraud claims; and (5) the district court and the magistrate judge erred in failing to recuse themselves. We consider these arguments in turn.

The district court’s jurisdiction

The district court had jurisdiction to dismiss the amended complaint while Evans’s immunity appeal was pending because the immunity order was nonappealable.² Generally, “[t]he filing of a

² Whether the district court had subject-matter jurisdiction is a “question[] of law that we review de novo even when it is raised for the first time on appeal.” *Dupree v. Owens*, 92 F.4th 999, 1004 (11th Cir. 2024) (citation modified).

notice of appeal confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Johnson v. 3M Co.*, 55 F.4th 1304, 1309 (11th Cir. 2022) (citation modified). This rule, however, does not apply when an appeal is taken from a nonappealable order. See *United States v. Hitchmon*, 602 F.2d 689, 691 (5th Cir. 1979) (en banc) (“[T]he notice of appeal from a nonappealable order does not render void for lack of jurisdiction acts of the trial court taken in the interval between the filing of the notice and the dismissal of the appeal by . . . the appellate court.”), *superseded by statute on other grounds as recognized in United States v. Martinez*, 763 F.2d 1297, 1308 & n.11 (11th Cir. 1985).

Here, the immunity appeal did not divest the district court of jurisdiction because an order granting judicial immunity is not immediately appealable when, as here, claims remained pending in the district court. *Winfrey v. Sch. Bd. of Dade Cnty.*, 59 F.3d 155, 158 (11th Cir. 1995) (collecting cases). We dismissed the immunity appeal for exactly that reason. See *Mickens*, 2026 WL 586555, at *1 (holding that the judicial immunity order was not immediately appealable). The immunity appeal therefore did not divest the district court of jurisdiction over the case. *Hitchmon*, 602 F.2d at 69.

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Judicial Immunity

The district court did not err in dismissing Evans's claims against the state judges because they were immune from suit.³ "Judges are entitled to absolute judicial immunity . . . for those acts taken while they are acting in their judicial capacity unless they acted in the 'clear absence of all jurisdiction.'" *Sibley v. Lando*, 437 F.3d 1067, 1070 (11th Cir. 2005) (quoting *Bolin v. Story*, 225 F.3d 1234, 1239 (11th Cir. 2000)).

To determine whether a judge acted in his judicial capacity, we look to "whether the nature and function of the particular act is judicial." *McCullough v. Finley*, 907 F.3d 1324, 1330–31 (11th Cir. 2018). If so, judicial immunity applies even if "the judge's acts are in error, malicious, or were in excess of his or her jurisdiction." *Sibley*, 437 F.3d at 1070 (quoting *Bolin*, 225 F.3d at 1239). If judicial immunity applies, the suit should be dismissed at the earliest possible opportunity. See *Hunter v. Bryant*, 502 U.S. 224, 227 (1991) ("[B]ecause the entitlement is an immunity from suit rather than a mere defense to liability, we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation." (citation modified)).

The state judges were immune because their challenged actions were judicial in nature. Although it is difficult to tell the par-

³ "We review de novo a district court's grant of judicial immunity." *Smith v. Shook*, 237 F.3d 1322, 1325 (11th Cir. 2001) (citation modified).

ticular acts Evans challenged in the amended complaint, he generally alleged that the state judges acted improperly in presiding over Bobby Evans's "fake probate proceedings" and discharging Evans as the estate's personal representative. But all of these arguments go to "the propriety of the [judges'] act[s]," not to whether the judges "acted in [a] judicial capacity." *See McCullough*, 907 F.3d at 1330–31.

In short, nothing in the amended complaint suggests that the state judges acted outside their judicial capacities or in the "clear absence of all jurisdiction." *See Sibley*, 437 F.3d at 1070 (citation modified). The district court therefore properly dismissed Evans's claims against the state judges because they were entitled to judicial immunity on those claims.⁴

Shotgun pleading

For the other defendants, the district court did not abuse its discretion by dismissing the amended complaint with prejudice because it was a shotgun pleading that failed to cure the deficiencies

⁴ To the extent Evans challenges the district court's dismissal of his claims against the state judges in their official capacities, the challenge fails because Florida's sovereign immunity barred such claims under the Eleventh Amendment. *See Simmons v. Conger*, 86 F.3d 1080, 1084–85 (11th Cir. 1996) (finding that damages claim against state judge in his official capacity was barred by the Eleventh Amendment); *Kaimowitz v. Fla. Bar*, 996 F.2d 1151, 1155 (11th Cir. 1993) (stating that the "Eleventh Amendment prohibits actions against state courts").

identified in the original complaint.⁵ “A shotgun pleading is a complaint that violates either Federal Rule of Civil Procedure 8(a)(2) or [r]ule 10(b), or both.” *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021).

Rule 8(a)(2) “requires the complaint to provide ‘a short and plain statement of the claim showing that the pleader is entitled to relief.’” *Id.* (quoting Fed. R. Civ. P. 8(a)(2)). And rule 10(b) “requires a party to ‘state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances.’” *Id.* (quoting Fed. R. Civ. P. 10(b)).

There are many kinds of shotgun pleadings, but the “unifying characteristic” “is that they fail . . . to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313, 1323 (11th Cir. 2015). To help the district courts spot them, we’ve identified “four rough types”: (1) “a complaint containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the

⁵ We review for abuse of discretion a district court’s order dismissing a complaint as a shotgun pleading. *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021). We must “give liberal construction to the pleadings of pro se litigants.” *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (citation modified). Liberal construction, however, does not give us “license to serve as de facto counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action.” *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014) (citation modified).

entire complaint”; (2) a complaint “replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action”; (3) a complaint that fails to separate each cause of action or claim for relief into a different count; and (4) a complaint that asserts “multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against.” *Id.* at 1321–23.

The amended complaint was a shotgun pleading of the second and fourth types. Evans’s statement of facts was a string of “conclusory, vague, and immaterial” allegations about a conspiracy between his attorneys, the state judges, state agencies, law enforcement officers, and others, to deceive him into signing a fraudulent settlement agreement after law enforcement fabricated a traffic homicide investigation report. *See id.* at 1322. Absent from these allegations was any explanation of how these events occurred, when they occurred, or how they harmed him.

Also, the amended complaint asserted “multiple claims against multiple defendants without specifying which of the defendants [were] responsible for which acts or omissions,” making it impossible to discern “which of the defendants [were] responsible for which acts or omissions” underlying the eighteen claims. *See id.* at 1323. Because of these defects, the amended complaint failed to “give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *See id.*

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In response, Evans argues that the district court could not dismiss the amended complaint with prejudice because it “failed to perform a meticulous, count-specific futility analysis and failed to articulate [its] rationale before precluding amendment with prejudice.” But the district court clearly explained that it was dismissing the case with prejudice “because [Evans] already had an opportunity to correct the problems and failed to do so.” The district court did not err in doing so.

District courts must give litigants at least one chance to amend a shotgun pleading. See *Vibe Micro, Inc. v. Shabanets*, 878 F.3d 1291, 1296 (11th Cir. 2018). “In the repleading order, the district court should explain how the offending pleading violates the shotgun pleading rule so that the party may properly avoid future shotgun pleadings.” *Id.* If the party “had fair notice of the defects” and nevertheless “fails to remedy the defects” after “a meaningful chance to fix them[,] . . . the district court does not abuse its discretion in dismissing the case with prejudice on shotgun pleading grounds.” *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1358 (11th Cir. 2018).

Here, the district court found that the original complaint was a shotgun pleading and provided Evans with detailed instruction on how to cure those deficiencies. Evans returned with an amended complaint with the same deficiencies as the first. Thus, there was no abuse of discretion in dismissing the amended complaint with prejudice and without further leave to amend.

Evidentiary hearing

The district court did not abuse its discretion by denying Evans’s post-judgment request for an evidentiary hearing to demonstrate “that fabricated evidence or fraudulent instruments were used to influence judicial proceedings.”⁶ A district court does not abuse its discretion by denying a post-judgment request for an evidentiary hearing if “[a]n evidentiary hearing would have served no useful purpose in aid of the court’s analysis of the . . . questions presented.” *Cano v. Baker*, 435 F.3d 1337, 1343 (11th Cir. 2006) (quoting *McCorvey v. Hill*, 385 F.3d 846, 850 (5th Cir. 2004)).

Whether or not the settlement agreement or other documents were fraudulent had no bearing on the district court’s reason for dismissal—that the amended complaint was a shotgun pleading. And because an evidentiary hearing “would have served no useful purpose in aid of the court’s analysis of” whether the amended complaint was a shotgun pleading, the district court did not abuse its discretion in refusing to hold one. *See id.*

Recusal

Neither the magistrate judge nor the district court were required to recuse.⁷ Under 28 U.S.C. section 455(a), a judge “shall

⁶ We review for abuse of discretion a district court’s denial of a post-judgment request for an evidentiary hearing. *Torres v. First Transit, Inc.*, 979 F.3d 876, 882 (11th Cir. 2020).

⁷ We review for abuse of discretion a district court’s decision not to recuse. *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000). But we review for plain error when a party raises recusal for the first time on appeal. *See Hamm v.*

disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). This provision requires recusal if “an objective, fully informed lay observer would entertain significant doubt about the judge’s impartiality.” *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000). To do so, a charge of partiality under section 455(a) must have “some factual basis” and “cannot be based on “unsupported, irrational or highly tenuous speculation.” *United States v. Cerceda*, 188 F.3d 1291, 1293 (11th Cir. 1999) (citation modified).

Evans offers no factual basis that would lead an objective observer to entertain doubts about the magistrate judge’s and the district court’s impartiality. *Christo*, 223 F.3d at 1333; *Cerceda*, 188 F.3d at 1293. He asserts that the judges conspired with the defendants to permit them to file intentionally fraudulent and frivolous motions to dismiss the amended complaint and committed embezzlement, breach of contract, “treason against the Constitution,” and other misconduct, which required recusal. The conspiratorial nature of these actions is demonstrated, Evans says, by the fact that the magistrate judge and the district court ruled against him. The

Members of Bd. of Regents of State of Fla., 708 F.2d 647, 651 (11th Cir. 1983). Because Evans moved for the magistrate judge’s recusal below, we review the magistrate judge’s failure to recuse for abuse of discretion. *Christo*, 223 F.3d at 1333. But because Evans raises the district court’s recusal as an issue for the first time on appeal, we review the district court’s failure to recuse for plain error. *Hamm*, 708 F.2d at 651. Whichever standard of review we apply, however, our analysis remains the same.

magistrate judge, he alleges, “reject[ed] considering [his allegations] to be true,” and “fraudulently grant[ed] the [state judges’] judicial and sovereign immunity without considering their substantive fraudulent acts.” And the district court was in cahoots too because he “fraudulently and erroneously relied on and adopted all of the [magistrate judge’s] [reports and recommendations], rulings, decisions[,] and orders,” and “misused a purported procedural error to dismiss [the] entire [c]omplaint.”

But “adverse rulings alone do not provide a party with a basis for holding that the court’s impartiality is in doubt.” *United States v. Berger*, 375 F.3d 1223, 1227 (11th Cir. 2004) (citation modified); *see also Liteky v. United States*, 510 U.S. 540, 555 (1994) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.”). Thus, neither the magistrate judge nor the district court were required to recuse.

AFFIRMED.⁸

⁸ We DENY all pending motions.