

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10758
Non-Argument Calendar

JAMES THOMAS CARLAN,

Plaintiff-Appellant,

versus

TEGNA INC.,
13 WMAZ TV,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 5:25-cv-00480-TES

Before NEWSOM, LAGOA, and BRASHER, Circuit Judges.

PER CURIAM:

James Carlan, *pro se*, sued TEGNA Inc. and 13WMAZTV (collectively the “Media Defendants”) for defamation and negligence after they published a news article that he alleges included false information and portrayed him in a bad light. The district court granted the Media Defendants’ motion to dismiss on the grounds that the reporting in the article was truthful and based on information received from law enforcement. Carlan appeals that order. After careful consideration of the record, we affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Carlan, a resident of Warner Robins, Georgia, “is a minister, healer, and the founder of Faith Through Works Ministries,” and a landlord for rental properties. On November 3, 2024, he attended a political rally for then-presidential candidate Donald Trump in Macon, Georgia, and carried a handmade lime-green posterboard sign that read “My Abuse Should Be On the News.” As Carlan entered the rally, he presented the sign at each security checkpoint and was allowed to keep it on his person despite the rally’s prohibition on “unapproved signage.”

According to Carlan, he was approached by three event security guards during the rally, one of whom grabbed Carlan’s wrists and tried to seize the sign. Carlan resisted before the two other guards intervened. Together, the guards confiscated the sign and led Carlan out of the rally. The Bibb County Sheriff’s Office (“BCSO”) arrested Carlan and charged him with battery.

The next day, the Media Defendants published a news article that reported on Carlan’s arrest titled “Macon man arrested for

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assaulting security guard during Donald Trump rally, [BCSO] confirms.” The introduction section of the article reported that “[w]hen the man refused to remove a ‘contraband’ sign, the sheriff’s office says he struck a security guard.” According to the article, Carlan “allegedly assaulted event security” after he “was approached by the event’s private security for holding a ‘contraband’ sign.” And “[w]hen security told Carlan to remove the sign, the sheriff’s office said, he refused and that’s when ... he struck the guard[.]” The article reported that the sheriff’s office said that “[w]hen Carlan was asked to leave, he denied having struck the security guard[.]” The article concluded by reporting that “the sheriff’s office arrested Carlan” and “charged [him] with battery.”

On October 31, 2025, Carlan filed a *pro se* complaint in the Northern District of Georgia against the Media Defendants alleging state-law claims for defamation and negligence for publishing false information about him. In support of his claims, Carlan disputed the veracity of the statements made in the article.¹ Specifically, Carlan alleged that he did not “smuggle” his sign in because the security checkpoints allowed him to have his sign inside the event. He also alleged that he never “denied striking a security guard” and that this fabrication demonstrated the Media Defendant’s “reckless disregard for the truth.” Moreover, Carlan alleged that the article

¹ Carlan also alleged that the Media Defendants violated his First and Fourteenth Amendment rights but does not raise these arguments on appeal. The district court dismissed these claims without prejudice because the Media Defendants were not state actors that could be sued under 42 U.S.C. § 1983.

showed that the Media Defendants “were in direct communication with the Sheriff’s Office, which means they had full access to accurate booking information and knew that [he] had not been charged with assault” and still reported the misinformation. These misrepresentations, Carlan alleged, caused harm to his reputation, caused him to lose clients, and “destroyed his business credibility in the community.” Carlan sought over \$11 million in damages for the alleged harm and an injunction requiring the publication to be rescinded. He also attached various exhibits to his complaint, including a video of his altercation with the security guards, the news article at issue, and an affidavit from a witness who observed the altercation at the rally.

The Media Defendants moved to dismiss Carlan’s complaint and argued, among others, that the article truthfully reported what happened to Carlan at the rally and that this information was relayed to the Media Defendants by the BCSO. Relevant to this appeal, the Media Defendants attached a BCSO incident report about Carlan’s arrest.

The BCSO incident report recorded Carlan’s arrest for battery and the details of the altercation. In recounting the event, the report stated that a “Secret Service Agent” witnessed Carlan “holding contraband in the air during the President Trump Rally.” That agent “approached Mr. Carlan and asked him to remove the sign from the premises.” According to the narrative, “Mr. Carlan then became irate and argumentative, causing a disturbance and refusing to comply with [the agent’s] instructions.” The agent “began

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to approach Mr. Carlan” when “Mr. Carlan elbowed” the agent “with his right elbow into the [agent’s] left shoulder, causing an apparent bruise.” Additional agents assisted with restraining Carlan until local law enforcement arrived. Carlan “was still irate and actively trying to break the control” of the agents and local law enforcement until he “was properly handcuffed and escorted off the premises with no further incident.”

The district court granted the Media Defendants’ motion to dismiss on three grounds. First, the district court concluded that the statements in the article were substantially correct, and thus, there was no defamation. The district court viewed Carlan’s video exhibit and concluded that “it’s clear [from the video that] there’s an offensive touching” and also reasoned that the difference between the article’s use of the word “assault” and “battery” in the headline was “minor” or a “minute nuance” such that there was no “false and defamatory statement” about Carlan. Second, the district court concluded that the Media Defendants were entitled to Georgia’s state-law communication privilege because the Media Defendants were reporting on “truthful reports of information received from” law enforcement. And third, the district court concluded that the Media Defendants were entitled to the protection of Georgia’s anti-SLAPP statute, which protects speech on matters of public concern. *See* O.C.G.A. § 9-11-11.1.

Carlan filed this timely appeal.²

II. STANDARD OF REVIEW

We review a district court's grant of a Rule 12(b)(6) motion *de novo*. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003) (per curiam). At the Rule 12(b)(6) stage, 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). *Pro se* pleadings are held to a "less stringent standard than formal pleadings drafted by lawyers" and will be liberally construed. *Campbell v. Air Jam. Ltd.*, 760 F.3d 1165, 1168 (11th Cir. 2014).

Nevertheless, the leniency afforded *pro se* litigants with liberal construction "does not give a court license to serve as *de facto* counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action." *Id.* at 1168-69 (quoting *GJR Invs., Inc. v. Cnty. Of Escambia, Fla.*, 132 F.3d 1359, 1369 (11th Cir. 1998), *overruled on other grounds as recognized in, Randall v. Scott*, 610 F.3d 701, 709 (11th Cir. 2010)) (italics omitted).

² We note that the district court expressed "serious concerns about the amount in controversy" alleged by Carlan but we conclude that Carlan plausibly alleged at least \$75,000 in damages, even if the \$11 million alleged may be an overvaluation. See *Federated Mut. Ins. Co. v. McKinnon Motors, LLC*, 329 F.3d 805, 807 (11th Cir. 2003); *Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1062 (11th Cir. 2010) ("[C]ourts may use their judicial experience and common sense in determining whether the case stated in a complaint meets federal jurisdictional requirements."). Thus, we have subject matter jurisdiction over this matter. See *Roe*, 613 F.3d at 1062.

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Additionally, a *pro se* plaintiff's complaint must still contain facts sufficient to support a plausible claim to relief, and mere legal conclusions "are not entitled to the assumption of truth." *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). To survive a Rule 12(b)(6) motion to dismiss, the party's complaint must include more than "a formulaic recitation of the elements of [the] cause of action." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The factual allegations presented in the complaint "must be enough to raise a right to relief above the speculative level." *Id.*

Generally, where it appears that a *pro se* plaintiff's complaint might state a claim if more carefully drafted, the district court must provide the plaintiff at least one opportunity to amend before dismissing his complaint with prejudice, but the court need not do so when "a more carefully drafted complaint could not state a claim." *Woldeab v. Dekalb Cnty. Bd. of Educ.*, 885 F.3d 1289, 1291 (11th Cir. 2018) (quoting *Bank v. Pitt*, 928 F.2d 1108, 1112 (11th Cir. 1991), *overruled in part by*, *Wagner v. Daewoo Heavy Indus. Am. Corp.*, 314 F.3d 541, 542 & n.1 (11th Cir. 2002) (en banc)). Amendment is futile where the plaintiff can provide "no set of facts in support of his claim which would entitle him to relief." *Thomas v. Town of Davie*, 847 F.2d 771, 773 (11th Cir. 1988) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957), *abrogated on other grounds by*, *Twombly*, 550 U.S. 544).

Generally, we review the denial of leave to amend for an abuse of discretion, although the underlying legal conclusion of whether amendment would be futile is reviewed *de novo*. *Corsello v. Lincare, Inc.*, 428 F.3d 1008, 1012 (11th Cir. 2005).

III. ANALYSIS

On appeal, Carlan raises four arguments. First, Carlan argues that the district court erred by making the factual determination that the news article reported true facts. Second, Carlan argues that the district court misapplied the communications privilege doctrine. Third, Carlan argues that the district court misapplied Georgia’s anti-SLAPP statute. And fourth, Carlan argues that the district court erred by dismissing his complaint with prejudice and that because of that dismissal, he was deprived of his Seventh Amendment right to a jury trial.³

A. Document Evidence

As an initial matter, we address whether the district court was at liberty to consider the video footage attached to Carlan’s

³ Though Carlan raises additional arguments and new facts in support of those arguments, they are either summarily addressed in his “summary of arguments” section of his briefs or unrelated to his claims of defamation and negligence. Thus, they are not properly before us. See *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) (“A party fails to adequately ‘brief’ a claim when he does not ‘plainly and prominently’ raise it, ‘for instance by devoting a discrete section of his argument to those claims.’”) (quotation omitted). For example, in his initial brief, Carlan recounts how he tried to maintain his “professional relationships” and “resorted to trading his food tray to fellow inmates in exchange for their help locating phone numbers and making calls on his behalf.” But it is unclear how this is related to his defamation claim, and how loss of his professional relationships were the product of the alleged defamation and not the “approximately eight to ten days” he was denied phone access while in jail.

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complaint and the BCSO's incident report attached to the Media Defendants' motion in its analysis.

Two rules govern a district court's consideration of documentary evidence at the motion to dismiss stage. First, a district court may consider the exhibits attached to a plaintiff's complaint, as they are considered part of the complaint. *Gill v. Judd*, 941 F.3d 504, 511 (11th Cir. 2019); *see also* Fed. R. Civ. P. 10(c). "[W]here a video is clear ... we accept the video's depiction" and "view the facts in the light depicted by the video." *Baker v. City of Madison, Ala.*, 67 F.4th 1268, 1277–78 (11th Cir. 2023); *see also* *Cisneros v. Petland, Inc.*, 972 F.3d 1204, 1218 (11th Cir. 2020). Second, when "a document [is] not referred to or attached to a complaint," it may still be considered "under the incorporation-by-reference doctrine if the document is (1) central to the plaintiff's claims; and (2) undisputed, meaning that its authenticity is not challenged." *Johnson v. City of Atlanta*, 107 F.4th 1292, 1300 (11th Cir. 2024).

Here, we conclude that the district court properly considered the video of the altercation in its analysis of the Media Defendants' motion to dismiss because Carlan himself attached the video to his pleadings. In reviewing that video, the district court did not clearly err in its factual finding that the video depicted Carlan's offensive touching. This was not a legal conclusion about Carlan's guilt, or whether assault or battery actually happened. Rather, it was a factual determination that, put simply, Carlan elbowed the

security guard attempting to confiscate Carlan's unapproved signage.⁴

We also conclude that the district court permissibly considered the BCSO incident report at the motion to dismiss stage, even though it was not attached to Carlan's complaint. In his complaint, Carlan stated that the Media Defendants' allegedly inaccurate publication could have been verified by checking the "booking information" from the Sheriff's Office and in his initial brief, Carlan argues that his defamation claim is supported by comparing the language used in "the arrest record" and the publication's headline. Though it is not clear that the BCSO incident report is the precise "booking information" and "arrest record" referenced by Carlan, it nonetheless serves the same purpose of verifying the truth of the statements in the publication. By his own admission, Carlan concedes that the report is central to his claim and he does not challenge its authenticity in any of his filings. Thus, the BCSO incident report can be considered at this stage.

We turn now to the merits of Carlan's defamation claim.

⁴ Carlan attached an affidavit from a witness of the event who stated that "[a]t no point did [the witness] see Mr. Carlan strike an officer." But this statement is belied by the video Carlan attached to his complaint and we accept the facts as depicted in the video over the affidavit. *See Baker*, 67 F.4th at 1277–78. "After all, courts are not required to rely on 'visible fiction.'" *Id.* (quotation omitted).

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B. Defamation

On appeal, Carlan’s argument regarding defamation focuses on the headline of the Media Defendants’ article. According to Carlan, the headline constitutes defamation because it stated that he was “arrested for assaulting [a] security guard” when instead he was arrested for “battery.”

A defamation claim under Georgia law requires the following elements: “(1) a false and defamatory statement concerning the plaintiff; (2) an unprivileged communication to a third party; (3) fault by the defendant amounting at least to negligence; and (4) special harm or the actionability of the statement irrespective of special harm.” *Am. C.L. Union, Inc. v. Zeh*, 864 S.E.2d 422, 427 (Ga. 2021) (quoting *Mathis v. Cannon*, 573 S.E.2d 376, 380 (Ga. 2002)).

“The truth of an allegedly defamatory statement [i]s a complete defense[.]” *Oskouei v. Matthews*, 912 S.E.2d 651, 662 n.9 (Ga. 2025). “In determining whether a statement is false, defamation law overlooks minor inaccuracies and concentrates upon substantial truth.” *Jaillet v. Ga. Television Co.*, 520 S.E.2d 721, 724 (Ga. Ct. App. 1999) (quotation marks omitted and alteration adopted). “Minor factual errors which do not go to the substance, the gist, the sting of a story do not render a communication false for defamation purposes.” *Id.* (quotation marks omitted and alterations adopted).

Moreover, “a headline cannot be read in isolation; it must be read in conjunction with the article which it accompanies.” *Cmt.*

Newspaper Holdings, Inc. v. King, 682 S.E.2d 346, 349 (Ga. Ct. App. 2009). An allegedly defamatory publication “must be read and construed in the sense in which the readers to whom it is addressed would ordinarily understand it.” *Id.* (quoting *Const. Publ’g Co. v. Andrews*, 177 S.E. 258, 259 (Ga. Ct. App. 1934)). “So the whole item, including headlines, should be read and construed together, and its meaning and signification thus determined.” *Id.* (alteration adopted).

Under Georgia law, communications are deemed privileged if they are “made in good faith as part of an act in furtherance of the . . . entity’s right of petition or free speech . . . in connection with an issue of public interest or concern, as defined in subsection (c) of Code Section 9-11-11.1.” O.C.G.A. § 51-5-7(4). Section 9-11-11.1 states that issues of public interest or concern include “conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or an issue of public concern.” *Id.* § 9-11-11.1(c)(4). The Supreme Court has opined that:

[s]peech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.

Snyder v. Phelps, 562 U.S. 443, 453 (2011) (quotation marks and citation omitted).

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Additionally, a communication is privileged under Georgia law if it is a “[t]ruthful report[] of information received from an[] arresting officer or police authorit[y].” O.C.G.A. § 51-5-7(8). “Members of the media which routinely broadcast or publish news stories of what happens in the community in which the public has a legitimate interest are afforded a cloak of protection in that the publication constitutes a qualified privilege.” *Minton v. Thomson Newspapers, Inc.*, 333 S.E.2d 913, 916 (Ga. Ct. App. 1985). When a publisher is entitled to only a conditional privilege, “the exercise of the privilege must be exercised in good faith and ordinary care.” *Id.* As pertains to the exercise of good faith and ordinary care, when a publisher reports information obtained from police officials, “[n]ot only [i]s the publication . . . conditionally privileged but the law does not require [the] publisher to conduct an independent investigation unless the police report [i]s such as to raise serious doubts as to the truth of the publication.” *Id.* A plaintiff may also overcome a conditional privilege under O.C.G.A. § 51-5-7, by demonstrating that “the defendant used the privilege as a pretense, such that the allegedly defamatory statement was not made for one of the bona fide purposes listed in [the statute] but was instead made with ‘private malice,’ meaning with ill will toward the plaintiff or with an intent to injure him.” *Oskoui*, 912 S.E.2d at 671.

Here, we conclude that the statements made in the Media Defendants’ publication were true. Colloquially, to “assault” means “to attack violently.” *Assault*, MERRIAM-WEBSTER DICTIONARY, <https://perma.cc/62C5-B55E> (“He was arrested for *assaulting* a police officer.”) (*italics in original*). When read in the

sense in which the headline would ordinarily be understood, the statement is true: Carlan elbowed event security and he was arrested for that assault. To be sure, in legal parlance there is a difference between “assault” and “battery.” But this distinction does not go to the substance of the publication as to render it false for defamation purposes. Indeed, the article itself recognizes this distinction when it says that Carlan was charged with battery, not assault. Thus, we conclude that the district court did not err by dismissing Carlan’s complaint on this basis.⁵

Because “[t]he truth of an allegedly defamatory statement [i]s a complete defense” under Georgia law, *Oskoui*, 912 S.E.2d at 662 n.9, we do not address the alternative grounds on which the district court granted the Media Defendants’ motion to dismiss.

C. Negligence

Next, Carlan challenges the district court’s dismissal of his negligence claim. However, where such a negligence claim arises from a claim of defamation, “without the defamation claim, [the

⁵ In the summary section of his briefs, Carlan also argues that the article defamed him because the sign he was holding was not “smuggled” into the rally and he is not a “Macon man.” Aside from failing to raise these arguments meaningfully in his briefing, *see Sapuppo*, 739 F.3d at 681, these alleged factual misrepresentations are also insufficient to support his defamation claim because they are minor factual errors that do not go to the “gist” of the story, *see Jaillet*, 520 S.E.2d at 724. Thus, even if these facts were inaccurate, that inaccuracy would not change our conclusion.

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plaintiff] has no separate cause of action for negligence.” *Lewis v. Meredith Corp.*, 667 S.E.2d 716, 718 (Ga. Ct. App. 2008).

Because Carlan’s negligence claim is premised on his defamation claim, we construe his arguments in support of his defamation claim to also support his claim of negligence. As noted, under Georgia law, a claim of negligence premised on allegedly defamatory statements cannot survive without the defamation claim. *Lewis v. Meredith Corp.*, 293 Ga. App. 747, 749 (2008). Here, Carlan’s negligence claim alleges that the Media Defendants “owed [him] a duty to verify facts before publication” and that “[t]hey breached this duty through reckless reporting and a failure to retract” that reporting. We thus conclude that because Carlan’s negligence claim arises from his defamation claim his failure to state a defamation claim means that he “has no separate cause of action for negligence.” *See id.* (quotation marks omitted). The district court, thus, did not err by dismissing Carlan’s negligence claim.

D. Dismissal With Prejudice

Next, Carlan argues that the district court erred by dismissing his complaint with prejudice instead of giving him an opportunity to amend his complaint. If he were given an opportunity to amend, Carlan argues that he would have pleaded the “precise language of the article versus the language of the arrest record” and “allege with particularity [the Media Defendants’] editorial word choices.”

Generally, where it appears that a *pro se* plaintiff’s complaint might state a claim if more carefully drafted, the district court must

provide the plaintiff with at least one opportunity to amend before dismissing his complaint with prejudice. *See Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1132 (11th Cir. 2019). But the district court need not do so when “a more carefully drafted complaint could not state a claim.” *Woldeab v. Dekalb Cnty. Bd. of Educ.*, 885 F.3d 1289, 1291 (11th Cir. 2018) (quotation omitted). Amendment is futile when the plaintiff can provide “no set of facts in support of his claim which would entitle him to relief.” *Thomas v. Town of Davie*, 847 F.2d 771, 773 (11th Cir. 1988) (quotation omitted).

Here, we conclude that the district court did not err in determining that amendment would be futile. Carlan’s defamation and negligence claims are based on the alleged misreporting of the events that transpired. As discussed above, the Media Defendants’ publication was substantially true and nothing that Carlan can add to his pleadings would change that conclusion. There are no set of facts he could add in support of his claims which would entitle him to relief, and thus the district court did not abuse its discretion by dismissing his complaint with prejudice.

Having concluded that the district court did not err by dismissing Carlan’s complaint with prejudice, we also conclude that Carlan’s Seventh Amendment right to a jury trial was not violated. It is hornbook law that a district court may dismiss a case for “failure to state a claim upon which relief can be granted” and a dismissal as a matter of law before trial does not violate a plaintiff’s right to a trial by jury. *See Fed. R. Civ. P. 12(b)(6)*; *see also Garvie v. City of Fort Walton Beach, Fla.*, 366 F.3d 1186, 1190 (11th Cir. 2004).

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IV. CONCLUSION

For the reasons discussed above, we affirm the district court's order dismissing Carlan's complaint with prejudice.

AFFIRMED.