

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-13804
Non-Argument Calendar

D.C. Docket No. 1:20-cv-23440-BB

WILLIE FRANK WALKER,

Plaintiff-Appellant,

versus

ATTORNEY GENERAL, STATE OF FLORIDA,
HERBERT ERVING WALKER, III,
in his personal and official capacity,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(May 19, 2021)

Before JILL PRYOR, NEWSOM, and LUCK, Circuit Judges.

PER CURIAM:

~~Willie Walker, proceeding pro se, appeals the district court's sua sponte~~
dismissal of his civil complaint for lack of subject-matter jurisdiction and failure to state a claim. The gist of his complaint was that, in his past state criminal case, the state prosecutor failed to show that the state court had jurisdiction over him. On appeal, Walker doesn't challenge the district court's finding that it lacked jurisdiction to consider his complaint. Instead, he reiterates that Appellee Herbert Walker, the prosecutor in his state-court case, violated his constitutional rights by failing to answer his post-conviction jurisdictional challenges in that case. He states that this failure deprived the state court of subject-matter jurisdiction and references the *Accardi* doctrine¹ as a source of relief. He doesn't address Appellee Ashley Moody's involvement in the matter.

We review *de novo* a district court's dismissal of a complaint for lack of subject-matter jurisdiction. *Center v. Sec'y, Dep't of Homeland Sec.*, 895 F.3d 1295, 1299 (11th Cir. 2018). The party asserting the claim bears the burden of establishing federal subject matter jurisdiction. *Williams v. Poarch Band of Creek Indians*, 839 F.3d 1312, 1314 (11th Cir. 2016). We also review *de novo* a district court's dismissal for failure to state a claim upon which relief can be granted. *Behrens v. Regier*, 422 F.3d 1255, 1259 (11th Cir. 2005).

¹ The *Accardi* doctrine—derived from *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)—“stands for the unremarkable proposition that an agency must abide by its own regulations,” *Chevron Oil Co. v. Andrus*, 588 F.2d 1383, 1386 (5th Cir. 1979).

~~Courts should liberally construe *pro se* pleadings. *Alba v. Montford*, 517~~

F.3d 1249, 1252 (11th Cir. 2008). But courts can't rewrite otherwise deficient pleadings in order to sustain actions. *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014). And *pro se* litigants still must conform to procedural rules. *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007).

Federal courts may adjudicate cases only when both the Constitution and a federal statute grant jurisdiction. *Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 409 (11th Cir. 1999). Courts have an independent obligation to inquire into subject-matter jurisdiction. *Id.* at 410. If a court lacks subject-matter jurisdiction over a claim, it must dismiss it. Fed. R. Civ. P. 12(h)(3).

Under the Federal Rules of Civil Procedure, a pleading must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Generally, a complaint is not required to contain detailed factual allegations, but “a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (cleaned up). The complaint must contain enough facts to make a claim for relief plausible on its face—that is, the factual content must allow the court to “draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Further, although *pro se* pleadings are liberally construed, they still

must suggest some factual basis for a claim. *Jones v. Fla. Parole Comm'n*, 787

F.3d 1105, 1107 (11th Cir. 2015).

The district court properly dismissed Walker's case because both his complaint and his amended complaint failed to allege any basis for subject-matter jurisdiction or relief. First, as to jurisdiction, Walker failed to allege diversity of citizenship and, although he purported to travel under federal-question jurisdiction, he failed to allege sufficient facts for the district court to assess whether it possessed such jurisdiction. On appeal, he doesn't direct our attention to any federal cause of action authorizing his action against his state prosecutor for failing to demonstrate that the state court had jurisdiction. We lack a general supervisory power over state courts. *Rogers v. McMullen*, 673 F.2d 1185, 1188 (11th Cir. 1982).²

Second, even assuming jurisdiction existed, Walker failed to allege any clear ground for relief. His threadbare assertion that Herbert Walker failed to answer his jurisdictional challenges didn't provide factual context from which the district

² Although Walker doesn't claim to seek a writ of habeas corpus, the district court correctly noted that he failed to allege that he exhausted state remedies, as he would be required to do if he sought the writ. See 28 U.S.C. § 2254(b)(1)(A); *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999).

~~court could infer that Herbert Walker or Ashley Moody was liable for any~~
misconduct.³

Accordingly, we **AFFIRM**.

³ Walker's reference to the *Accardi* doctrine doesn't change this result. Walker didn't allege a violation of any specific rule or regulation or allege any action by a federal agency, so *Accardi* provides no basis for relief. *See Chevron*, 588 F.2d at 1386.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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May 19, 2021

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-13804-HH
Case Style: Willie Walker v. Attorney General, State of Fl., et al
District Court Docket No: 1:20-cv-23440-BB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, each party to bear own costs.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Christopher Bergquist, HH at 404-335-6169.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6151

OPIN-1A Issuance of Opinion

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 20-cv-23440-BLOOM/Louis

WILLIE FRANK WALKER,

Plaintiff,

v.

ASHLEY MOODY, *et al.*,

Defendants.

ORDER

THIS CAUSE is before the Court upon a *sua sponte* review of the record. *Pro se* Plaintiff filed a complaint, ECF No. [1] on August 19, 2020. That same day, the Court dismissed the then-pending complaint without prejudice and Ordered Plaintiff to file an amended complaint asserting a basis for the Court's jurisdiction and relief. ECF No. [4] ("Order"). In the Order, the Court explained that the complaint failed to allege grounds for federal court jurisdiction, and that Plaintiff failed to set forth an actionable claim upon which relief could be granted.

Plaintiff has now filed an Amended Complaint, ECF No. [6], but the pleading still fails to cure the deficiencies in the original complaint. For example, the Amended Complaint states that this Court "lacks subject matter and personal jurisdiction," this Court must "provide it has subject matter jurisdiction," and Florida state courts lacked jurisdiction over him. *Id.* Although the Court construes *pro se* filings more leniently than pleadings drafted by counsel, the Court again cannot discern a basis for its jurisdiction or a cause of action.

Accordingly, it is **ORDERED AND ADJUDGED** that the Amended Complaint, ECF No.

~~[6], is DISMISSED. The Clerk of Court is directed to CLOSE this case.~~

DONE AND ORDERED in Miami, Florida, this 3rd day of September, 2020.

A handwritten signature in black ink, appearing to be 'JB' or similar, written over a horizontal line.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record

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Miami Gardens, FL 33056