21-5752

In the
Supreme Court of the United States

Ivan Alexandrovich Vetcher,

Petitioner,

V.

Immigration and Customs Enforcement (ICE), Supervisors; Dusty Rowden, ICE Deportation Officer; FNU Ashley, Detention Officer at Rolling Plains Regional Jail Detention Center; Marcello Villegas, Warden, Rolling Plains Regional Jail Detention Center; ICE Officers, LNU/FNU; Jeh C. Johnson, Secretary of Department of Homeland Security; Philip T. Miller, Assistant Director of Field Operations for Enforcement and Removal Operations; FNU Hernandez, Detention Officer at Rolling Plains Regional Jail Detention Center; FNU Ross, Detention Officer at Rolling Plains Regional Jail Detention Center; ICE Agents, LNU/FNU, ICEA1; ICE Agents, LNU/FNU, ICEA2; Rolling Plains Regional Jail & Detention Center Staff; United States Department of Homeland Security, Supervisors,

Respondents

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

The Bill of Rights protects The Common Man against a governmental oppressor.

Fifth Circuit broke from the Constitution when it allowed the Government to deny pro se litigants legal materials to defend their positions. The integrity of the American legal system to check the governmental branches is undermined when the judicial powers do not uphold the essence of the Constitution.

If the Supreme Court allows the agents of the Executive Branch to abuse their powers, then the Supreme Court of the United States failed in its most basic function.

QUESTION PRESENTED

On October 27, 2015, the immigration judge of the Dallas Immigration Court (IJ) based his decision to remove Vetcher on the law precedent established by Mellouli v. Lynch - 135 S. Ct. 1980 (2015) pursuant to 8 U.S.C. § 1227(a)(2)(B)(i). The immigration judge misapplied precedents established since 1990 by the US Supreme Court and 5th Circuit Court of Appeals (COA). Vetcher was not able to rebut. He was denied access to the Mellouli v. Lynch case law even though he specifically requested it prior to the hearing.

Vetcher filed suit in the Northern District of Texas for denial of access to court by Defendants with a timeline of facts regarding the ruling made by IJ. The district court of the Northern District of Texas (DC) dismissed Vetcher's access to court claim based on Mellouli with prejudice. District court then denied Vetcher leave to amend. COA upheld the district court's dismissal and denial of leave to amend.

District Courts may dismiss with prejudice where the plaintiff acted irresponsibly or in bad faith, or where rehearing the claim would burden the court system. DC did not state clearly any of the common reasons for dismissal with prejudice. The reason given for the DC's dismissal was that Vetcher's claim was conclusory, failing to adequately identify the acts or events that would entitle him relief from Defendants. The common practice for dismissal of conclusory allegations is to dismiss without prejudice and permit the litigant to correct his claim. If the dismissal is with prejudice, then the order should state a specific reason why the plaintiff's further claim was futile.

> Did DC and COA properly apply the requirements for pleadings as applied in most circuits?

Vetcher timely filed to amend with DC alleging claims and facts related to the previous violation.In 2017 COA changed its binding categorical approach holding, requiring Vetcher to show that the mismatch of 188 listed on Texas Controlled Substance list (and not federal) was actually prosecuted by the state. During his detention, Vetcher notified Defendants he needed arrest/conviction records to challenge his detention and pending deportation. The Defendants did not provide the information. Subsequently, Vetcher was deported.
Vetcher asked for leave to amend to include these new facts. District court denied Vetcher's motion although claims where timely on their own. COA upheld DC's ruling.

Did DC and COA deny Vetcher's right to amend?

PARTIES TO THE PROCEEDINGS BELOW

Dusty Rowden, ICE Deportation Officer; FNU Ashley, Detention Officer at Rolling Plains Regional Jail Detention Center; Marcello Villegas, Warden, Rolling Plains Regional Jail Detention Center; ICE Officers, LNU/FNU; Jeh C. Johnson, Secretary of Department of Homeland Security; Philip T. Miller, Assistant Director of Field Operations for Enforcement and Removal Operations; FNU Hernandez, Detention Officer at Rolling Plains Regional Jail Detention Center; FNU Ross, Detention Officer at Rolling Plains Regional Jail Detention Center; ICE Agents, LNU/FNU, ICEA1; ICE Agents, LNU/FNU, ICEA2; Rolling Plains Regional Jail & Detention Center Staff; United States Department of Homeland Security, Supervisors,

RELATED PROCEEDINGS

United States Court of Appeals (5th Circuit):
Vetcher v. ICE, et al. No. 19-10156
United States District Court For Northern District of Texas
Vetcher v. ICE, et al. 3:16-cv-00500

TABLE OF CONTENTS

IN THE
Supreme Court of the United States

IVAN ALEXANDROVICH VETCHER,

Petitioner,

v.

ICE , ETC AL.

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

Petitioner Ivan Vetcher respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit Court of Appeals (COA).

OPINIONS BELOW

The opinion of the court of appeals denying in part and dismissing in part the petition for review is not reported. The district court opinion is unreported.

STATEMENT OF JURISDICTION

The judgment of the court of appeals was filed on February 1, 2021. App, infra, 1a. The court denied rehearing on April 9, 2021. Id. at 15a. Petition was filed timely. The clerk returned the petition on July 15, 2021, to enter corrections within 60 days. The certiorari is resubmitted on September 13, 2021. This Court has jurisdiction under 28 U.S.C. § 1254(1).

PRELIMINARY STATEMENT

We as Americans pride ourselves on our constitution. Without it, who are we? The constitution endows with unalienable rights every human being present within the borders of our country. When the government restrains liberty or property of individuals, it must give due process. As a cornerstone of liberty, an accused individual is afforded a free attorney when he cannot afford one.

When the government merely accuses a non-citizen who has resided in the country for decades of a deportable offense relating to controlled

substances the non-citizen is taken to detention. The non-citizen is then held under a no bond provision.[1] He cannot work and hire an attorney. The only tools he has to defend himself against expulsion are the resources provided to him by the government. Most of the detained non-citizens are deported. Should our sensibilities as Americans be offended to know that the individuals who are "punished"[2] with deportation, are denied the very tools needed to make their case in court?

Vetcher seeks justice not just for himself, but for all those who were detained like him. Alone, isolated from friends and family, without the tools to challenge detention and deportation. Armed with facts, but uneducated in law, Vetcher brought his challenge on an access to court claim in District Court. Contrary to decades of Fifth Circuit jurisprudence, his claim was dismissed with prejudice, and he was not given an opportunity to amend after dismissal. The court did not think that Vetcher could present a viable claim of an access to court violation.

Vetcher's case presents a unique opportunity for this Honorable Court. It allows this Honorable Court to uphold action against deprivation of liberty without due process in deportation proceedings. Without means to contest deportation charges, how can there ever be liberty and justice for all?

STATEMENT

I. BACKGROUND

---

[1] 8 U.S. Code § 1226

[2] See Fong Yue Ting v. United States, 149 U.S. 698, 740 (1893). (But it needs no citation of authorities to support the proposition that deportation is punishment. Every one knows that to be forcibly taken away from home, and family, and friends, and business, and property, and sent across the ocean to a distant land, is punishment, and that oftentimes most severe and cruel. Apt and just are the words of one of the framers of this Constitution, President Madison, when he says (4 Elliot's Debates, 555) "If the banishment of an alien from a country into which he has been invited as the asylum most auspicious to his happiness-a country where he may have formed the most tender connections, where he may have invested his entire property, and acquired property of the real and permanent, as well as the movable and temporary kind, where he enjoys, under the laws, a greater share of the blessings of personal security and personal liberty than he can elsewhere hope for, if, moreover, in the execution of the sentence against him he is to be exposed, not only to the ordinary dangers of the sea, but to the peculiar casualties incident to a crisis of war and of unusual licentiousness on that element, and possibly to vindictive purposes, which his immigration itself may have provoked -if a banishment of this sort be not a punishment, and among the severest'of punishments, it will be difficult to imagine a doom to which the name can be applied.")

Vetcher was taken into immigration custody in July 2014. Vetcher was subsequently deported 4 years later in August 2018. During his time in detention Vetcher studied law. Unlike most non-citizens, who readily choose deportation over prolonged detention, Vetcher chose to fight his case to the end. Immigration Judge ordered Vetcher removed on August 6, 2014. In March 2015, BIA granted motion to reopen. Vetcher successfully contested an aggravated felony charge made by the government based on available Fifth Circuit case law. The government filed a new § 1227(a)(2)(B)(i). On October 27, 2015 The government used and unavailable to Vetcher case law Mellouli v. Lynch - 135 S. Ct. 1980 (2015) to convince the judge to apply a modified categorical approach. See ROA 335-339. Vetcher could not rebut the government's argument without access to the case and was ordered deported.

Vetcher notified Defendant Rowden on 9/25/2015 that the case law was missing, there was no response. ROA 196-199. When Vetcher notified defendant Villegas, he informed him, "What is in the law library is what is required." ROA 310.

BIA remanded the case again on November 8, 2016 on a discretionary issue. Vetcher was ordered deported for the third time in October 4, 2017. Vetcher appealed and raised the issue that he lacked access to materials necessary to prove actual prosecution as required by new 2017 Fifth Circuit en banc Decision.[3] The Fifth Circuit found no due process violation.[4]

---

[3] United States v. Castillo-Rivera, 853 F.3d 218, 223 (5th Cir. 2017) (en banc).

[4] *Vetcher v. Barr*, 953 F.3d 361, 370 (5th Cir. 2020)("As a pro se litigant, Vetcher successfully secured an initial stay of removal from this court. Two separate BIA decisions remanded his

During this time Vetcher continued to seek information from defendants (Keller, Rowden, Chechowitz). On 11/8/2016 He submitted written request stating Please provide me within 15 days from 11/8/2016 by 11/23/2016 (to allow me 15 days to finish motion to reconsider by 12/8/2016)

- Federal Controlled substance Schedules with the date the controlled substance was introduced
- Texas Controlled Substance Schedules, Penalty Group 2 and 2-A with introduction dates 481.103 & 481.1031
- Texas State law prosecuting the difference between the two lists.

The law library is deficient and lacking this material. I am unable to challenge immigration charges through a categorical approach. See attached BIA decision 11/8/2016 page 3"

Each defendant responded.

Rowden:

Review section 6.3A of the PBNDS. These are the required materials to be provided in the law library. Request to the warden to have someone research & send these materials to you via mail. You will find the information under title 21 US Code of Federal Regulations.[not in the law library]

Keller:

I have requested review and you may request and send this information to you. The library [unintelligible] and you may/have others research & send in."

Checowizs :

We can try to obtain information relating to specific cases, but there is no list of all Texas State Criminal Convictions that ICE has access to. We are unable to access the information you have requested. Your request is therefore denied.

---

proceedings back to the IJ. He also preserved all relevant issues for appeal. Vetcher's intermittent successes throughout the course of his pro se efforts are beyond admirable. None of the perceived hindrances Vetcher points out stopped him from being able to research the law, draft, mail and file his pleadings, and appeal his claims for the better part of four years without the assistance of legal counsel. Implicitly, Vetcher argues that since he did not win on his claims (specifically the categorical match argument) and because those materials were unavailable, that there was a due process violation. To his detriment, that is not the legal standard. Accordingly, we find no due process violation here.")

Vetcher could not contest his 1227(a)(2)(B)(i) charge and was deported in August 2018.

A. Proceedings in the District Court

Vetcher initially filed this complaint on February 23, 2016. ROA 3. Vetcher remained in "preliminary screening" until November 29, 2018.[5] He attempted to amend his complaint multiple times to include the new violations. On May 5, 2017, District court instructed him that he could not enter any more amendments. ROA 529 ("Thus, the Court finds that for the purpose of the screening of this case under 28 U.S.C. § 28 U.S.C. §1915(e)(2)(B), until any further Order of the Court regarding such review, the Court will consider only the third amended complaint and attachment... motions related to additional amendment of the pleading must be denied at this time.")

Vetcher thought to amend his complaint after preliminary screening to add factual basis for 11/8/2016 and further denial of access to court, as the deficiency prevented Vetcher from challenging his removal charges. On 11/29/2018 District court dismissed Vetcher's access to court claims with prejudice. District court did not allow Vetcher to amend after the screening was conducted.

---

[5] During preliminary screening Vetcher amended his complaint twice and sought to amend the complaint April 7, 2017 as additional violations continued to accrue. That motion was denied by Senior Judge Sam R Cummings on 5/5/2017)

B. Proceedings in the court of appeals

Vetcher timely appealed his case to COA. He raised the question "Did the district court err by dismissing Vetcher's claims with prejudice without giving Vetcher a chance to amend?" COA affirmed the district court's decision.

REASONS FOR GRANTING THE PETITION

I. Fifth Circuit imposes undue pleading burden on pro se immigration detainees.

Vetcher pled in his complaint ROA 167 "the deficiency in the law library prevented the plaintiff from successfully litigating his case, as the government based its defense on the case not present in the law library, and refused to provide plaintiff with a copy upon request." Vetcher attached 7 pages of exhibits showing the trial transcript and a screenshot of available cases in the library. ROA 203-208. See Appendix B Exhibit A.

DHS: It's *Mellouli v. Lynch,*[6] which they specifically addressed a 237(a)(2)(B)(i) argument...

Vetcher:I would actually – I, I do not have access to the *Mellouli* case... I have not read it.... I'd like to review it.

Judge: No, I'm sorry. We can't do that now...

Judge: Then - and I'm not - and I guarantee you I'm not committing a due - I don't believe I'm doing - guaranteeing you a due - I'm making a due process violation here by not letting you look at it because, you know, it - Mellouli actually makes a lot of sense because if, if we didn't have the rule in Mellouli, which, frankly, I kind of noodled out myself beforehand....The

[6] 135 S. Ct. 1980 (2015)

issue here is you were convicted of this offense or crime for the drug that matches up perfectly on both schedules.[7]

From reading the transcript it becomes that the IJ choose to use modified categorical approach, contrary to both *Mellouli,*[8] *Descamps v. U.S.,* 133 S.Ct. 2276 (2013) and decades of controlling circuit precedent.[9]

Vetcher attached deficiency and prejudice resulting from actions of defendants Rowden (deportation officer in charge of the facility) and Villegas (warden of the facility). They were both notified prior to the court hearing

---

[7] "The issue here is you were convicted of this offense or crime for the drug that matches up perfectly on both schedules" this is an application of modified categorical approach, as the judge looks beyond at Vetcher's actual record of conviction, where he plead guilty to Texas Health and Safety Code 481.113(d) for delivery of a controlled substance in Schedule 2-2A. This was contrary to the then current established law of the circuit, where the government had to prove that all the substances in 2-2A matched up with Federal Controlled Substance List.

[8] At 1988 (Under the Paulus analysis, adhered to as recently as 2014 in Matter of Ferreira, 26 I. & N. Dec. 415 (BIA 2014), Mellouli would not be deportable. Mellouli pleaded guilty to concealing unnamed pills in his sock. At the time of Mellouli's conviction, Kansas' schedules of controlled substances included at least nine substances—e.g., salvia and jimson weed—not defined in § 802. See Kan. Stat. Ann. § 65-4105(d)(30), (31). The state law involved in Mellouli's conviction, therefore, like the California statute in Paulus, was not confined to federally controlled substances; it required no proof by the prosecutor that Mellouli used his sock to conceal a substance listed under § 802, as opposed to a substance controlled only under Kansas law. Under the categorical approach applied in Paulus, Mellouli's drug-paraphernalia conviction does not render him deportable. In short, the state law under which he was charged categorically "relat[ed] to a controlled substance," but was not limited to substances "defined in [§ 802]."

[9] *See, e.g.* , *United States v. Martinez-Romero* , 817 F.3d 917, 923 (5th Cir. 2016) (concluding that Florida's kidnapping statute does not require substantial interference with the victim's liberty because text of the statute included no reference to such a requirement); *Chavez-Hernandez* , 671 F.3d at 499 ("*On its face* , [the defendant's] offense does not qualify under the physical force portion of the definition because the Florida statute does not include the use of force as an element of the offense." (emphasis added)); *United States v. Najera-Mendoza* , 683 F.3d 627, 630 (5th Cir. 2012) (relying solely on the language of an Oklahoma kidnapping statute to conclude that it does not meet the generic definition of kidnapping); *United States v. Ortiz-Gomez* , 562 F.3d 683, 685–87 (5th Cir. 2009) (holding that a Pennsylvania "terroristic-threats" offense was not a "crime of violence" based on the language of the statute and without requiring a state decision on point); *United States v. Constante* , 544 F.3d 584, 585, 587 (5th Cir. 2008) (relying on the language of TPC § 30.02(a) to conclude that it does not contain as an element the necessary mens rea to constitute generic burglary);

and after in writing that the law library did not contain recent Supreme Court Cases. ROA 196-200.

To Vetcher's pro se understanding, his complaint stated a claim under *Bounds* v. *Smith*, 430 U.S. 817 (1977) and *Lewis v. Casey*, 518 U.S. 343, 356 (1996) ("*Bounds* guarantees no particular methodology but rather the conferral of a capability — the capability of bringing contemplated challenges to sentences or conditions of confinement before the courts. When any inmate, even an illiterate or non-English-speaking inmate, shows that an actionable claim of this nature which he desired to bring has been lost or rejected, or that the presentation of such a claim is currently being prevented, because this capability of filing suit has not been provided, he demonstrates that the State has failed to furnish " *adequate* law libraries or *adequate* assistance from persons trained in the law,")

Vetcher pled both prongs[10], and attached actual facts to the pleading, requests made to officers in charge and the immigration hearing transcript where relief was denied based on absence of case law. 5th Circuit treated Vetcher's claims as "conclusory assertions" warranting a dismissal with prejudice. *Vetcher v. ICE*,No. 19-10156, Page 3. (5th Circuit, February 1, 2021).

---

[10]I. Denial of Access: Vetcher could not prosecute his anti deportation claim because he did not have *Mellouli*.

II. Prejudice: Government had Mellouli and convinced the judge to apply a modified categorical approach, and Vetcher was deported

In 8 other circuits Vetcher would have pled "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Sheridan v. NGK Metals Corp.*, 609 F.3d 239, 262 n.27 (3d Cir. 2010) (internal quotation marks omitted) (quoting *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009)).*See Valambhia v. United Republic of Tanzania,* 964 F.3d 1135, 1137 (D.C. Cir. 2020),*Dane v. UnitedHealthcare Ins. Co.,* 974 F.3d 183, 188 (2d Cir. 2020), *Fleisher v. Standard Ins. Co.*, 679 F.3d 116, 120 (3d Cir. 2012),*Hall v. DIRECTV, LLC,* 846 F.3d 757, 765 (4th Cir. 2017)("When ruling on a motion to dismiss, courts must accept as true all of the factual allegations contained in the complaint and draw all reasonable inferences in favor of the plaintiff."). *Solo v. United Parcel Serv. Co.*, 819 F.3d 788, 793 (6th Cir. 2016), *Minn. Majority v. Mansky,* 708 F.3d 1051, 1055 (8th Cir. 2013),*In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008), *Starship Enters. of Atlanta, Inc. v. Coweta Cty.*, 708 F.3d 1243, 1252 (11th Cir. 2013).

According to Cornell Law School[11]:

> Procedural due process, based on principles of "fundamental fairness," addresses which legal procedures are required to be followed in state proceedings. Relevant issues, as discussed in detail below, include notice, opportunity for hearing, confrontation and cross-examination, discovery, basis of decision, and availability of counsel.

Vetcher was denied due process when the legal system enforcing his basic rights to fairness effectively shut him down, not allowing him to defend himself against a Goliath of the US government.

The US Supreme Court is Vetcher's last resort for justice.

[11] https://www.law.cornell.edu/constitution-conan/amendment-14/section-1/due-process-of-law

II. The COA judgement departs from treatment of pro se writers by this Court and other circuits. Majority of Circuits prior to dismissing claims with prejudice either give plaintiff notice to amend deficiencies or make a finding of futility to amend. Fifth Circuit does not.

COA States that "Vetcher's conclusory assertions that the law library was inadequate and that he lacked the proper assistance do not show an actual injury necessary for a claim of denial of access to courts." *Vetcher v. ICE*,No. 19-10156, Page 3. (5th Circuit, February 1, 2021). Neither the COA nor the District Court make a finding that an amendment ***after*** notice of deficiency would have been futile.

Vetcher attempted to amend his claims after the district court dismissed them with prejudice.[12] In 8 other circuits it is the usual practice, if claims are dismissed that a plaintiff gets to re-plead unless amendment would be futile.

DC Circuit

Belizan v. Hershon, 434 F.3d 579, 583 (D.C.Cir.2006)("Accordingly, the "standard for dismissing a complaint with prejudice is high: `dismissal *with prejudice* is warranted only when ... the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.'" (quoting *Firestone v. Firestone,* 76 F.3d 1205, 1209 (D.C.Cir.1996))*He Depu v. Yahoo! Inc.,* 334 F.Supp.3d 315, 319-21 (D.D.C. 2018)(The court denied both motions,

---

[12] COA does note that:

> Vetcher's motion to amend contained facts and arguments that he reasonably could have raised before dismissal, he has not shown that the district court abused its discretion in denying that motion.

COA ignores that the district court barred Vetcher from amending 2 years prior to issuing a ruling. See ROA 529

concluding that no additional allegations consistent with the first amended complaint could save its claims and that the proposed second amended complaint was "futile" because it did not cure the two deficiencies noted in the preceding paragraph.)

2nd Circuit

"[I]t is the usual practice upon granting a motion to dismiss to allow leave to replead[.]" *Cortec Indus., Inc. v. Sum Holding, L.P.,* 949 F.2d 42, 50 (2d Cir. 1991).

4th Circuit

King v. Rubenstein, 825 F.3d 206,225 (2016)("But the district court neither gave King the opportunity to amend nor did it engage in any discussion as to why amendment would be futile. In such a situation, the dismissal should generally be without prejudice.")

7th Circuit

Always Towing & Recovery , INC v City of Milwaukee, No. 20-3261(7th Circuit, June 24, 2021)("Plaintiffs have also already received an opportunity to remedy these deficiencies") *Gonzalez-Koeneke v. West,* 791 F.3d 801, 808 (7th Cir. 2015).("We will not reverse a district court's decision [to dismiss a complaint with prejudice], when the court provides a reasonable explanation for why it denied the proposed amendment.")

9th Circuit

See Albrecht v. Lund, 845 F.2d 193, 195 (9th Cir. 1988) ("If the district court determines that the `allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency,' then the dismissal without leave to amend is proper.") Benavidez v. County of San Diego, 993 F.3d 1134 (2021)("The Plaintiffs apparently did not attempt to remedy this deficiency after the district court first identified it in relation to the first amended complaint.")

10th Circuit

Gee v. Pacheco, 627 F.3d 1178, 1187-88 (10th Cir. 2010)(But ordinarily the dismissal of a pro se claim under Rule 12(b)(6) should be without prejudice, *see Oxendine v. Kaplan,* 241 F.3d 1272, 1275 (10th Cir. 2001) ("[D]ismissal of a pro se complaint for failure to state a claim is proper only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend." (brackets and internal quotation marks omitted)); and a careful judge will explain the pleading's deficiencies so that a prisoner with a meritorious claim can then submit an adequate complaint, *cf. Nasious v. Two Unknown B.I.C.E. Agents,* 492 F.3d 1158, 1163 (10th Cir.2007) (reversing dismissal with prejudice, in part because of district court's failure to explain to pro se plaintiff what is required by Fed.R.Civ.P. 8).) *see also Knight v. Mooring Capital Fund, LLC,* 749 F.3d 1180, 1190 (10th Cir. 2014) ("[A] dismissal with prejudice is appropriate where a complaint fails to state a claim under Rule 12(b)(6) and granting leave to amend would be futile." (internal quotation marks omitted))

11th Circuit

Dismissal with prejudice may be appropriate if granting leave to amend would be futile because the complaint as amended would still be properly dismissed or be immediately subject to summary judgment for the defendant. *See Cockrell v. Sparks,* 510 F.3d 1307, 1310 (11th Cir. 2007).

Magluta v. Samples, 256 F.3d 1282, 1284 (11th Cir. 2001), we have also held that a district court is required to give a counseled plaintiff only one chance to replead before dismissing a complaint with prejudice on shotgun-pleading grounds, *Vibe Micro, Inc. v. Shabanets,* 878 F.3d 1291, 1296 (11th Cir. 2018). Vetcher never even got that one chance.

The district court faulted Vetcher for not amending sooner when vetcher asked for leave to amend after the district court issued a decision to dismiss the case with prejudice. *Vetcher* v. *Rowden* 1:16-cv-164-C (N.D of TX December 31, 2018 pg.2)("Plaintiff has not shown good cause for failing to provide supplemental information ... sooner.") Yet, the district court itself instructed Vetcher not to file any further amendments. ROA 529[13]

Respectfully Submitted,

September 13, 2021
Date

/s/ Ivan Vetcher
Ivan A. Vetcher
ivanvetcher@gmail.com
4100 Silverthorne St.
Richardson, TX 75082

[13] ("Thus, the Court finds that for the purpose of the screening of this case under 28 U.S.C. § 28 U.S.C. §1915(e)(2)(B), until any further Order of the Court regarding such review, the Court will consider only the third amended complaint and attachment... motions related to additional amendment of the pleading must be denied at this time.")