IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-12835-HH

SHERRI JEFFERSON,

Plaintiff - Appellant,

versus

STATE BAR OF GEORGIA,
SHARON L BRYANT,
in her official capacity,
CHIEF OPERATING OFFICER, STATE BAR OF GEORGIA,
WILLIAM COBB,
in his official capacity as Bar Councel,
PATRICK LONGAN,
in his official capacity as review panel
chairman et al.,

Defendants - Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: JORDAN, BRASHER, and HULL, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP2)

[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 22-12835

Non-Argument Calendar

SHERRI JEFFERSON,

Plaintiff-Appellant,

versus

STATE BAR OF GEORGIA,
SHARON L. BRYANT,
in her official capacity,
CHIEF OPERATING OFFICER, STATE BAR OF GEORGIA,
WILLIAM COBB,
in his official capacity as Bar Counsel,
PATRICK LONGAN,
in his official capacity as review panel
chairman, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-01883-TCB

Before JORDAN, BRASHER, and HULL, Circuit Judges.

PER CURIAM:

Plaintiff Sherri Jefferson is a former member of the State Bar of Georgia who was disbarred by the Georgia Supreme Court on October 7, 2019. *See In re Jefferson*, 834 S.E.2d 73 (Ga. 2019). Jefferson, proceeding pro se, sued the State Bar of Georgia and certain officials (collectively, "State Bar") alleging, *inter alia*, that they acted improperly when they disciplined and ultimately disbarred her (and other African American lawyers).

The district court denied Jefferson's motion to recuse, granted the State Bar's motion to stay discovery pending resolution of its motion to dismiss, and later granted the State Bar's motion to dismiss. Jefferson appeals these three rulings. After careful review, we affirm the district court's denial of the recusal motion, its staying of the discovery, and its dismissal of Jefferson's claims.

I. MOTION TO RECUSE

On appeal, Jefferson challenges the district court's denial of Jefferson's motion to recuse. We review a denial of a motion for recusal for abuse of discretion. *In re Walker*, 532 F.3d 1304, 1308 (11th Cir. 2008).

Under 28 U.S.C. § 455, a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). A judge shall also disqualify himself if "he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding." *Id.* § 455(b). "[T]he general rule is that bias sufficient to disqualify a judge must stem from extrajudicial sources." *Thomas v. Tenneco Packaging Co.*, 293 F.3d 1306, 1329 (11th Cir. 2002) (quotation marks omitted). "The exception to this rule is when a judge's remarks in a judicial context demonstrate such pervasive bias and prejudice that it constitutes bias against a party." *Id.* (quotation marks omitted).

Here, Jefferson moved to recuse the district court judge because he previously had presided over two of her cases.[1] The district court did not abuse its discretion in denying Jefferson's

[1] In *Jefferson v. Deal*, Case No. 1:15-cv-02069-TCB (N.D. Ga. June 9, 2015), Jefferson challenged the constitutionality of several Georgia criminal statutes without success. In *Doe v. Deal*, Case No. 1:15-cv-02226-TCB (N.D. Ga. June 19, 2015), Jefferson initially listed herself as the attorney representing "Jane Doe" but later sought to be the plaintiff, and she again challenged the constitutionality of certain Georgia statutes without success.

motion to recuse for three reasons. First, the alleged bias raised by Jefferson pertained to the district court judge's capacity as a judge and was not extrajudicial in nature. 28 U.S.C. § 455(b); *Thomas*, 293 F.3d at 1329. Second, there was no evidence of remarks suggesting, much less constituting, bias. Third, Jefferson provided no other reason to suggest the district court judge's impartiality could reasonably be questioned. 28 U.S.C. § 455(a).

II. STAY OF DISCOVERY

On appeal, Jefferson also challenges the district court's staying of discovery pending the resolution of the State Bar's motion to dismiss. We review matters pertaining to discovery under an abuse of discretion standard. *Josendis v. Wall to Wall Residence Repairs, Inc.*, 662 F.3d 1292, 1306 (11th Cir. 2011).

District courts have "broad discretion to stay discovery pending a decision on a dispositive motion." *See Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1560 (11th Cir. 1985); *see also Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997) ("[D]istrict courts enjoy broad discretion in deciding how best to manage the cases before them."). As outlined later, the State Bar's motion to dismiss raised numerous legal reasons why Jefferson's case must be dismissed. Jefferson has shown no abuse of discretion in the district court's staying discovery pending a ruling on the State Bar's motion to dismiss.

III. MOTION TO DISMISS

The district court granted the State Bar's motion to dismiss on many grounds including: (1) the *Rooker-Feldman* doctrine; (2) a lack of subject matter jurisdiction; (3) the statute of limitations; (4) judicial, prosecutorial, and qualified immunity; (5) collateral estoppel; and (6) failure to state a claim.

On appeal, Jefferson challenges both a procedural aspect and the substantive merits of the district court's order on the State Bar's motion to dismiss. We begin with Jefferson's procedural argument.

A. Procedural

In its order granting the State Bar's motion to dismiss, the district court noted—in a footnote—Jefferson's prior actions regarding her disbarment ruled on by the United States Supreme Court and the Georgia Supreme Court:

> Jefferson petitioned the Supreme Court of the United States for a writ of certiorari, which was denied on February 24, 2020. *Jefferson v. Sup. Ct. of Ga.*, 140 S. Ct. 1148 (mem.), *reh'g denied*, 140 S. Ct. 2637 (2020) (mem.). She has since filed two unsuccessful actions with the Georgia Supreme Court seeking the reinstatement of her law license. *See In re Jefferson*, No. S22O0785 (Ga. Apr. 19, 2022); *In re Jefferson*, No. S22Y0949 (Ga. June 1, 2022).

Jefferson argues the district court erred by considering cases outside the instant litigation without converting the motion to dismiss into a motion for summary judgment. We disagree.

Generally, a district court must convert a motion to dismiss into one for summary judgment if it considers materials outside the complaint. *SFM Holdings, Ltd. v. Banc of Am. Sec., LLC*, 600 F.3d 1334, 1337 (11th Cir. 2010). But there are exceptions to this general rule. For example, a district court may consider matters of which a court may take judicial notice. *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322, 127 S. Ct. 2499, 2509 (2007).

As relevant here, a district court may take judicial notice of another lawsuit to establish the fact of such lawsuit and related filings, but not for the truth of the matters asserted in the other lawsuit. *See United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir. 1994) ("[A] court may take notice of another court's order only for the limited purpose of recognizing the 'judicial act' that the order represents or the subject matter of the litigation."). Here, by referring to cases outside the instant litigation, the district court merely noted the existence of those cases and whether they were successful. The district court did not reference those cases for the truth of the matters asserted in those cases. We thus conclude the district court did not err in this respect.

B. Merits of Motion to Dismiss

Jefferson also challenges each substantive ground given by the district court for granting the State Bar's motion to dismiss.

We begin with the *Rooker-Feldman* doctrine, which bars federal district courts from reviewing state-court decisions.[2] *Behr v. Campbell*, 8 F.4th 1206, 1208 (11th Cir. 2021). It applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 125 S. Ct. 1517, 1521–22 (2005).

On appeal, Jefferson does not appear to dispute that she qualified as a "state-court loser" and her October 2019 disbarment was "rendered before the district court proceedings commenced" in May 2022 in the instant case. *Id.* Rather, Jefferson claims she was not seeking to overturn the state court judgment. So the question is whether or not her instant claims are "inviting district court review and rejection of [the state court] judgment[]." *Id.*

A careful review of Jefferson's amended complaint in this case shows that she is seeking review and rejection of the state

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[2] This doctrine is named after two Supreme Court cases: *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303 (1983). In *Rooker*, the Supreme Court held that the plaintiffs, who had lost in state court, could not ask the federal district court to declare the state court judgment "null and void." 263 U.S. at 414–15, 44 S. Ct. at 149–50. Similarly, in *Feldman*, the Supreme Court said that lower federal courts lacked jurisdiction to review a decision by the District of Columbia's highest court denying a waiver of a bar admission rule that requires applicants to the District of Columbia Bar to have graduated from an approved law school. 460 U.S. at 482, 103 S. Ct. at 1315.

court judgment that disbarred her. Jefferson's amended complaint asked the district court to enjoin the State Bar from "[f]ailing or refusing to take such steps as may be necessary to restore . . . the victims of Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct." Jefferson thus essentially asked the district court to overturn the state court judgment and reinstate her law license.[3] *See Feldman*, 460 U.S. at 482 n.16, 103 S. Ct. at 1315 n.16 ("Orders of a state court relating to the admission, discipline, and disbarment of members of its bar may be reviewed only by the Supreme Court of the United States on certiorari to the state court, and not by means of an original action in a lower federal court." (quotation marks omitted)).

Further, by claiming that during her disciplinary proceedings the State Bar treated her unlike other similarly situated individuals, Jefferson essentially asked the district court to reject the state court judgment on the basis that it was rendered incorrectly. That is akin to requesting a declaration that the state

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[3] Jefferson attempts to distinguish "restore" from "reinstate" by arguing that restore means "to reestablish," while reinstate means "to put somebody to a former position or rank." We are unpersuaded. There is little daylight between restore and reinstate. *Compare Restore*, Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/restore (last visited Jan. 9, 2023) (defining restore as "to bring back to or put back into a former or original state"), *with Reinstate*, Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/reinstate (last visited Jan. 9, 2023) (defining reinstate as "to place again . . . in a former position" or "to restore to a previous effective state").

court judgment was arbitrary and capricious, which this Court recently held is barred by the *Rooker-Feldman* doctrine. *See Behr*, 8 F.4th at 1211. We thus affirm the district court's dismissal of Jefferson's claims under the *Rooker-Feldman* doctrine.

Because we affirm for this substantive reason, we need not, and do not, address whether the other, alternate grounds relied on by the district court for dismissal—lack of subject matter jurisdiction; statute of limitations; judicial, prosecutorial, and qualified immunity; collateral estoppel; and failure to state a claim—were likewise correct.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SHERRI JEFFERSON,

Plaintiff,

v.

THE STATE BAR OF GEORGIA; SHARON L. BRYANT, in her official capacity; SARAH B. COOLE, in her official capacity; WILLIAM COBB, in his official capacity; PATRICK LONGAN, in his official capacity; and ANTHONY ASKEW, in his official capacity,

Defendants.

CIVIL ACTION FILE

NO. 1:22-cv-1883-TCB

ORDER

This case comes before the Court on Defendants' motion [26] to dismiss Plaintiff Sherri Jefferson's amended complaint [14]. Also before the Court is Jefferson's motion [36] for reconsideration of this Court's order denying her motion to recuse the undersigned and stay discovery.

I. Background

Plaintiff Sherri Jefferson is a former member of the State Bar of Georgia who was disbarred by the Supreme Court of Georgia on October 7, 2019. *In re Jefferson*, 834 S.E.2d 73 (Ga. 2019). This lawsuit appears to be her latest effort to challenge her disbarment.[1]

On May 11, 2022, Jefferson, proceeding pro se, brought this action under 42 U.S.C. §§ 1983 and 1985 against the State Bar of Georgia and various individuals who participated in some capacity with her disciplinary proceedings.

She amended her complaint on June 1. At the heart of her amended complaint are allegations that Defendants discriminated against herself and other Black lawyers—particularly those who did not graduate from Emory University, Mercer University, University of Georgia, or Georgia State University—during disciplinary proceedings.

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[1] Jefferson petitioned the Supreme Court of the United States for a writ of certiorari, which was denied on February 24, 2020. *Jefferson v. Sup. Ct. of Ga.*, 140 S. Ct. 1148 (mem.), *reh'g denied*, 140 S. Ct. 2637 (2020) (mem.). She has since filed two unsuccessful actions with the Georgia Supreme Court seeking the reinstatement of her law license. *See In re Jefferson*, No. S22O0785 (Ga. Apr. 19, 2022); *In re Jefferson*, No. S22Y0949 (Ga. June 1, 2022).

The bulk of the complaint's factual averments detail the alleged wrongs that took place during her own disciplinary proceedings.

In addition to her constitutional claims, Jefferson alleges that Defendants engaged in fraud upon the court and violated Title VII of the Civil Rights Act, 4 U.S.C. § 2000e, 42 U.S.C. § 1981, Executive Order 11246, and the Landrum-Griffin Act when they deprived her of her law license. She asks the Court to declare that Defendants' actions were discriminatory and unconstitutional and to reinstate her and others to the positions they would have been in but for Defendants' unlawful conduct. She also asks for two million dollars in damages for Defendants' alleged fraud.

Defendants now move to dismiss the amended complaint on a number of grounds, including lack of subject-matter jurisdiction.

II. Motion for Reconsideration

The Court will first consider Jefferson's motion for reconsideration. On July 12, the Court denied Jefferson's motion to recuse the undersigned, finding that she had not shown proper grounds

for recusal. It also granted Defendants' motion to stay discovery pending the resolution of the motion to dismiss.

Jefferson moves for reconsideration pursuant to Federal Rule of Civil Procedure 59(e), reiterating that the undersigned or his staff has personal knowledge of the alleged fraud upon the court and is biased against her.

Rule 59(e) permits a party to file a "motion to alter or amend a judgment" after the entry of the judgment, and Local Rule 7.2 permits motions for reconsideration in limited circumstances. However, "[c]ourts may grant relief under Rule 59(e) or Local Rule 7.2E only if the moving party clears a high hurdle." *Chesnut v. Ethan Allen Retail, Inc.*, 17 F. Supp. 3d 1367, 1370 (N.D. Ga. 2014).

"[T]he only grounds for relief under Rule 59(e) are the discovery of new evidence or the existence of a manifest error of law or fact." *Id.* (citing *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007)). Similarly, Local Rule 7.2(E) provides that motions for reconsideration are not to be filed "as a matter of routine practice," but only when "absolutely necessary." A party may move for reconsideration only when at least

one of the following three elements exists: (1) the discovery of new evidence; (2) an intervening development or change in the controlling law; or (3) the need to correct a clear error or manifest injustice. *Pres. Endangered Areas of Cobb's Hist., Inc. v. U.S. Army Corps of Eng'rs*, 916 F. Supp. 1557, 1560 (N.D. Ga. 1995).

Because reconsideration may only occur under these limited circumstances, a motion for reconsideration "is not an opportunity for the moving party . . . to instruct the court on how the court 'could have done it better' the first time." *Id.*

In other words, a party "may not employ a motion for reconsideration as a vehicle to present new arguments or evidence that should have been raised earlier, introduce novel legal theories, or repackage familiar arguments to test whether the Court will change its mind." *Brogdon ex rel. Cline v. Nat'l Healthcare Corp.*, 103 F. Supp. 2d 1322, 1338 (N.D. Ga. 2000); *see also Godby v. Electrolux Corp.*, Nos. 1:93-cv-0353-ODE, 1:93-cv-126-ODE, 1994 WL 470220, at *1 (N.D. Ga. May 25, 1994) ("A motion for reconsideration should not be used to reiterate arguments that have previously been made. . . . [It is an

improper use of] the motion to reconsider to ask the Court to rethink what the Court [has] already thought through—rightly or wrongly." (some alterations in original) (citation omitted) (quoting *Above the Belt, Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983))); *Michael Linet, Inc. v. Vill. of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005) ("[Plaintiff] however cannot use a Rule 59(e) motion to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment.").

Jefferson's motion falls short of the requisite standard for reconsideration. She repackages arguments already considered and rejected by the Court, and nothing in her motion undermines the Court's determinations that recusal is not warranted and that a stay of discovery is appropriate. Thus, her motion for reconsideration will be denied.

III. Motion to Dismiss

Defendants contend that Jefferson's amended complaint is due to be dismissed on numerous grounds: the claims are barred by the *Rooker-Feldman* doctrine; the Court lacks subject-matter jurisdiction;

the claims are barred by the applicable statute of limitations; the claims are barred by judicial, prosecutorial, and qualified immunity; the claims are barred by collateral estoppel; and the amended complaint fails to state a claim. The Court need only consider the first few grounds to conclude that dismissal of Jefferson's amended complaint is warranted.

A. Legal Standard

A challenge to the subject-matter jurisdiction of the Court under Federal Rule of Civil Procedure 12(b)(1) may either be "facial" or "factual." *McElmurray v. Consol. Gov't of Augusta-Richmond Cnty.*, 501 F.3d 1244, 1251 (11th Cir. 2007) (citing *Williamson v. Tucker*, 645 F.2d 404, 412 (5th Cir. 1981)). When considering a facial attack, the Court takes all allegations in the complaint as true. *Id.* (quoting *Lawrence v. Dunbar*, 919 F.2d 1525, 1529 (11th Cir. 1990)). A Rule 12(b)(1) motion may also be based on a "factual attack," which allows the Court to go beyond the pleadings to determine whether the claim of subject-matter jurisdiction is credible. *See id.* (quoting *Lawrence*, 919 F.2d at 1529).

"If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." FED. R. CIV. P. 12(h)(3).

As the party asserting jurisdiction, Jefferson bears the burden of proof on the issue. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (citations omitted).

B. Discussion

"The *Rooker-Feldman* doctrine places limits on the subject matter jurisdiction of federal district courts and courts of appeal over certain matters related to previous state court litigation." *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001) (citing *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 415–16 (1923); *D.C. Ct. App. v. Feldman*, 460 U.S. 462, 476–82 (1983)). It "provides that federal courts, other than the United States Supreme Court, have no authority to review the final judgments of state courts." *Id.* (quoting *Siegel v. LePore*, 234 F.3d 1163, 1172 (11th Cir. 2000) (en banc)).

In her prayer for relief, Jefferson asks the Court to enjoin Defendants from "refusing to take such steps as may be necessary to restore, as nearly as practicable the victims of Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct and disparate treatment, including the fraud

upon the court." [14] at 35. To the extent Jefferson seeks to challenge the judgment of the Georgia Supreme Court and asks the Court to order Defendants to reinstate her law license, the Court has no jurisdiction over such a claim pursuant to the *Rooker-Feldman* doctrine. *See Cohran v. State Bar of Ga.*, 790 F. Supp. 1568, 1572 (N.D. Ga. 1992); *see also Feldman*, 460 U.S. at 482 n.16 ("Orders of a state court relating to the admission, discipline, and disbarment of members of its bar may be reviewed only by the Supreme Court of the United States on certiorari to the state court, and not by means of an original action in a lower federal court." (citation omitted)).

Jefferson now insists that she does not seek to challenge any disciplinary order or judgment; rather, she asks the Court to "review" the State Bar's alleged discriminatory disciplinary practices and determine whether Defendants denied Jefferson and others equal protection and due process. [32] at 6, 28. Nevertheless, the *Rooker-Feldman* doctrine bars her claims because the doctrine "extends not only to constitutional claims presented or adjudicated by a state court, but also to claims that are 'inextricably intertwined' with a state court

judgment." *Siegel*, 234 F.3d at 1172 (quoting *Feldman*, 460 U.S. at 482 n.16; *Dale v. Moore*, 121 F.3d 624, 626 (11th Cir. 1997)).

"A federal claim is inextricably intertwined with a state court judgment 'if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it.'" *Siegel*, 234 F.3d at 1172 (quoting *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 25 (1987) (Marshall, J., concurring)). Thus, the doctrine does not apply to a federal litigant who is not seeking reversal of the state court decision, *Target Media Partners v. Specialty Marketing Corp.*, 881 F.3d 1279, 1285 (11th Cir. 2018), but "[a] claim that at its heart challenges the state court decision itself . . . falls within the doctrine," *May v. Morgan County*, 878 F.3d 1001, 1005 (11th Cir. 2017) (citation omitted). In other words, "a state court loser cannot avoid *Rooker-Feldman*'s bar by cleverly cloaking her pleadings in the cloth of a different claim." *May*, 878 F.3d at 1005.

In her response brief, Jefferson contends that while the Court must necessarily examine the disciplinary proceedings, it must do so only to satisfy any standing issue and not to review or reject the final judgment. But this argument belies the claims at the heart of the

amended complaint—that Defendants violated Jefferson's rights when they interfered with her practice of law—and her relief requested, including a declaration that Defendants discriminated against her and acted unlawfully in depriving her of her license. Her claims succeed only to the extent that the Georgia Supreme Court wrongly revoked her license. *Siegel*, 234 F.3d at 1172; *see also Cohran*, 790 F. Supp. at 1572 (explaining that a plaintiff cannot escape the *Rooker-Feldman* rule by bringing his action under § 1983 for the unconstitutional deprivation of a property interest).

Jefferson also argues that the *Rooker-Feldman* doctrine does not bar her claims because she had no reasonable opportunity to raise them in state court, citing *Wood v. Orange County*, 715 F.2d 1543, 1547 (11th Cir. 1983). But Georgia State Bar Rule 4-218 provides a lawyer the opportunity to raise objections and constitutional arguments with the Georgia Supreme Court before that court subjects her to discipline. *See Wood v. Frederick*, No. 21-12238, 2022 WL 1742953, at *6 (11th Cir. May 31, 2022); *see also Cohran*, 790 F. Supp. at 1571–72. Thus, this argument also lacks merit.

The Court is therefore required under *Rooker-Feldman* to dismiss Jefferson's claims.

Even if it were not, the Court would lack subject-matter jurisdiction over Jefferson's claims because "any case challenging the action or inaction of the State Bar or any person in connection with a disciplinary proceeding can be brought only before the Supreme Court of Georgia." *Wood v. Frederick*, No. 1:21-cv-2269-TCB, 2021 WL 2815051, at *3 (N.D. Ga. June 9, 2021) (citing *Arroyo v. Colbert*, No. 1:18-cv-848-SCJ, 2018 WL 10510870, at *2 (N.D. Ga. Mar. 29, 2018)). Ineed, "[t]he Supreme Court of Georgia is endowed with the inherent and exclusive authority to govern the practice of law in Georgia." *Wallace v. State Bar of Ga.*, 486 S.E.2d 165, 166 (Ga. 1997) (citations omitted). Jefferson's claims are subject to dismissal for this additional reason.

Finally, even if Jefferson's equal protection and due process claims were not a challenge to her disciplinary proceedings, it is apparent from the face of the complaint that they are time barred.

Claims brought pursuant to §§ 1983 and 1985 are subject to the statute of limitations period governing personal injury actions in the state where the cause of action arose. *Wellons v. Comm'r, Ga. Dep't of Corr.*, 754 F.3d 1260, 1263 (11th Cir. 2014) (citing *Crowe v. Donald*, 528 F.3d 1290, 1292 (11th Cir. 2008)); *Villalona v. Holiday Inn Express & Suites*, 824 F. App'x 942, 946 (11th Cir. 2020) (per curiam) (citing *Chappell v. Rich*, 340 F.3d 1279, 1283 (11th Cir. 2003)). In Georgia, then, the statute of limitations for these claims is two years. O.C.G.A. § 9-3-33; *Wellons*, 754 F.3d at 1263 (citing *DeYoung v. Owens*, 646 F.3d 1319, 1324 (11th Cir. 2011)).

Although Jefferson's amended complaint generally avers that Defendants' unlawful conduct occurred "during the periods of 2000 through 2022" and is ongoing, [14] at 1, her factual averments are limited to the time period between November 2000 and October 2019, *id.* at 8, and her claims are based on Defendants' conduct through and including only October 2019.

Accordingly, Defendants argue that the statute of limitations on these claims ran in October 2021 (or at the very latest, February 2022

based on tolling related to the COVID-19 pandemic)—well before Jefferson filed this action on May 11, 2022. Jefferson offers no response, and the Court agrees with Defendants that her constitutional claims are due to be dismissed as time barred.

IV. Conclusion

For the foregoing reasons, Jefferson's motion [36] for reconsideration is denied, and Defendants' motion [26] to dismiss is granted. The Clerk is directed to close this case.

IT IS SO ORDERED this 26th day of July, 2022.

Timothy C. Batten, Sr.
Chief United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SHERRI JEFFERSON, Plaintiff, vs. THE STATE BAR OF GEORGIA, SHARON L. BRYANT, SARAH B. COOLE, WILLIAM COBB, PATRICK LONGAN, AND ANTHONY ASKEW, Defendants.	CIVIL ACTION FILE NO. 1:22-cv-1883-TCB

JUDGMENT

This action having come before the court, Honorable Timothy C. Batten, Sr., United States District Judge, for consideration of defendant's motion to dismiss, and the court having granted said motion, it is

Ordered and Adjudged that the action be, and the same hereby is, dismissed.

Dated at Atlanta, Georgia, this 26th day of July, 2022.

KEVIN P. WEIMER
CLERK OF COURT

By: s/ D. Barfield
Deputy Clerk

Prepared, Filed, and Entered
in the Clerk's Office
July 26, 2022
Kevin P. Weimer
Clerk of Court

By: s/ D. Barfield
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SHERRI JEFFERSON,

Plaintiff,

v.

THE STATE BAR OF GEORGIA; SHARON L. BRYANT, in her official capacity; SARAH B. COOLE, in her official capacity; WILLIAM COBB, in his official capacity; PATRICK LONGAN, in his official capacity; and ANTHONY ASKEW, in his official capacity,

Defendants.

CIVIL ACTION FILE

NO. 1:22-cv-1883-TCB

ORDER

Plaintiff Sherri Jefferson brings this action pro se against Defendants, averring that they engaged in discriminatory practices towards herself and others during state bar disciplinary proceedings.

Jefferson generally alleges that Defendants have violated her constitutional rights and contravened 42 U.S.C. §§ 1983 and 1985.

Jefferson has filed a motion to recuse the undersigned. Defendants have filed a motion to dismiss and move the Court to stay discovery pending the resolution of their motion to dismiss. Now before the Court are Jefferson's motion [20] to recuse and Defendants' motion [28] to stay.

I. Motion to Recuse

In her motion to recuse, Jefferson argues that the undersigned cannot be fair and impartial because (1) he harbors bias towards her; and (2) he or his staff could be witnesses in the current case based on her two prior cases before this Court, *Jefferson v. Deal*, No. 1:15-cv-2069-TCB (N.D. Ga. filed June 9, 2015); *Doe v. Deal*, No. 1:15-cv-2226-TCB (N.D. Ga. filed June 19, 2015). To support these assertions, Jefferson broadly invokes 28 U.S.C. §§ 144 and 455.

Jefferson's contentions suggest recusal based upon either 28 U.S.C. § 455(a) or 455(b). Subsection (a) provides that "[a]ny . . . judge . . . of the United States shall disqualify himself in any proceeding in

which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Under this subsection, the issue is "whether an objective, disinterested lay observer fully informed of the facts . . . would entertain a significant doubt about the judge's impartiality." *United States v. Patti*, 337 F.3d 1317, 1321 (11th Cir. 2003) (quoting *Parker v. Connors Steel Co.*, 855 F.2d 1510, 1524 (11th Cir. 1988)). To warrant recusal or disqualification, any bias "must be personal and extrajudicial; it must derive from something other than that which the judge learned by participating in the case." *McWhorter v. City of Birmingham*, 906 F.2d 674, 678 (11th Cir. 1990) (citing *Jaffe v. Grant*, 793 F.2d 1182, 1188–89 (11th Cir. 1986)).[1]

Additionally, subsection (b) provides that a judge shall recuse himself "[w]here he has . . . personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C. § 455(b)(1). Similarly, a judge shall recuse himself if he "[i]s to the judge's knowledge likely to be

[1] While an exception exists for this principle, it is not applicable here. *See Wood v. Frederick*, No. 21-12238, 2022 WL 1742953, at *4 (11th Cir. May 31, 2022) (The "alleged bias 'must stem from extrajudicial sources, unless the judge's acts demonstrate 'such pervasive bias and prejudice that it unfairly prejudices one of the parties.'" (quoting *United States v. Bailey*, 175 F.3d 966, 968 (11th Cir. 1999))).

a material witness in the proceeding." 28 U.S.C. § 455(b)(5)(iv). As with subsection (a), if a judge acquires this knowledge "in the course of a judicial proceeding," recusal under these sections is unnecessary because the alleged prejudice or bias is not "extrajudicial." *See United States v. Bailey*, 175 F.3d 966, 969 (11th Cir. 1999) (citations omitted); *see also Christo v. Padgett*, 223 F.3d 1324, 1334 (11th Cir. 2000) (citing *Liteky v. United States*, 510 U.S. 540, 555 (1994)).

Under each subsection, "a charge of partiality must be supported by facts," not merely speculation or unsupported claims. *See United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986)."[A] judge has a duty to deny recusal when proper grounds for recusal have not been shown." *Fed. Trade Comm'n v. Nat'l Urological Grp., Inc.*, No. 1:04-cv-3294-CAP, 2015 WL 13687740, at *3 (N.D. Ga. Oct. 27, 2015).

Because neither section justifies recusal, the Court will deny Jefferson's motion.

First, no objective lay observer would question the impartiality of the undersigned or his staff. Jefferson fails to demonstrate any existence of bias or prejudice. Though she provides emails between the

Court's staff and herself, these emails are devoid of any evidence of prejudice. Moreover, even if Jefferson's assertion were interpreted as prejudice stemming from prior proceedings before the Court, this supposed prejudice is not the type contemplated by § 455(a). *See Liteky*, 510 U.S. at 551 ("Also not subject to deprecatory characterization as 'bias' or 'prejudice' are opinions held by judges as a result of what they learned in earlier proceedings.").

Second, Jefferson largely relies upon the presumption that the undersigned or his staff might be witnesses in the current proceeding. However, it is unclear how either the undersigned or his staff could be material witnesses, especially where this Court and his staff lack, as required by § 455(b), "personal knowledge of disputed evidentiary facts" regarding Jefferson's constitutional claims. 28 U.S.C. § 455(b).

Indeed, even assuming the undersigned acquired personal knowledge of Jefferson's claims, this supposed knowledge "was acquired in the course of a judicial proceeding," which does not support recusal. *See Bailey*, 175 F.3d at 969 (emphasizing that "alleged knowledge of a disputed evidentiary fact does not require recusal" if acquired in the

course of a judicial proceeding); *see also United States v. Sims*, 845 F.2d 1564, 1570 (11th Cir. 1988) (denying plaintiff's motion to recuse where the district court judge learned of a contentious issue while in his "judicial capacity").

Therefore, recusal of the undersigned is not warranted.

II. Motion to Stay Discovery

A "District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997). When such motion is raised, the movant has the burden of showing "good cause and reasonableness" for her motion to succeed. *Cuhaci v. Kouri Grp., LP*, 540 F. Supp. 3d 1184, 1186 (S.D. Fla. 2021) (citing *Howard v. Galesi*, 107 F.R.D. 348 (S.D.N.Y. 1985)).

In Defendants' motion to stay, they argue that in light of their pending motion to dismiss, staying discovery would preserve resources, particularly because of the various legal grounds for dismissal. Jefferson responds that the "preliminary peek standard" compels a denial of Defendants' motion and that staying discovery would prejudice her case. [29] at 4 (citing *Moore v. Shands Jacksonville Med. Ctr., Inc.*,

No. 3:09-cv-298-J-34TEM, 2009 WL 4899400, at *1 (M.D. Fla. Dec. 11, 2009).

Without addressing the merits of Defendants' motion to dismiss, the Court disagrees with Jefferson and will grant Defendants' motion to stay.

While a motion to dismiss is not dispositive for granting a stay of discovery, a "preliminary peek" at the merits of the motion to dismiss warrants halting discovery. Defendants allege multiple legal questions—not factual disputes—that could serve as grounds for dismissal. *See Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997) (holding that "[f]acial challenges to the legal sufficiency of a claim or defense" must be resolved before discovery proceeds). If discovery began and the Court later found Defendants' motion to dismiss meritorious, the parties and the Court would likely expend significant resources in the interim.

Thus, Defendants' motion "should . . . be resolved before discovery begins." *Id.*

III. Conclusion

For the foregoing reasons, Jefferson's motion [20] to recuse is denied. Additionally, for good cause shown, Defendants' motion [28] to stay discovery is granted. Discovery in this case is stayed until the Court rules on Defendants' motion to dismiss.

IT IS SO ORDERED this 12th day of July, 2022.

Timothy C. Batten, Sr.
Chief United States District Judge

Additional material from this filing is available in the Clerk's Office.