

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-1685

JOANN ARTIS STEVENS,**Plaintiff - Appellant,****v.****TOWN OF SNOW HILL, NC; COUNTY OF GREENE, NC; LENOIR
COMMUNITY COLLEGE & FOUNDATION, NC,****Defendants - Appellees.**

Appeal from the United States District Court for the Eastern District of North Carolina, at
Greenville. James C. Dever III, District Judge. (4:19-cv-00156-D)

Submitted: September 28, 2022

Decided: November 4, 2022

Before NIEMEYER, THACKER, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

JoAnn Artis Stevens, Appellant Pro Se. Katherine Marie Barber-Jones, Dan M. Hartzog, Jr., HARTZOG LAW GROUP LLP, Raleigh, North Carolina; James R. Morgan, Jr., WOMBLE BOND DICKINSON (US) LLP, Winston-Salem, North Carolina; William John Cathcart, Jr., BROWN, CRUMP, VANORE & TIERNEY, PLLC, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

JoAnn Artis Stevens appeals the district court's order granting Defendants' motions to dismiss and dismissing Stevens' civil complaint. Limiting our review of the record to the issues raised in Stevens' informal brief, we have reviewed the record and find no reversible error. *See* 4th Cir. R. 34(b); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief"). Accordingly, we affirm the district court's order. *Stevens v. Town of Snow Hill*, No. 4:19-cv-00156-D (E.D.N.C. June 8, 2021). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: December 28, 2022

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No. 21-1685
(4:19-cv-00156-D)

JOANN ARTIS STEVENS

Plaintiff - Appellant

v.

TOWN OF SNOW HILL, NC; COUNTY OF GREENE, NC; LENOIR
COMMUNITY COLLEGE & FOUNDATION, NC

Defendants - Appellees

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Niemeyer, Judge Thacker, and Judge Richardson.

For the Court

/s/ Patricia S. Connor, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:19-CV-156-D

JOANN ARTIS STEVENS,

Plaintiff,

v.

TOWN OF SNOW HILL, N.C.,
COUNTY OF GREENE, N.C., and
LENOIR COMMUNITY COLLEGE
AND FOUNDATION, N.C.,

Defendants.

ORDER

On October 31, 2019, Joann Artis Stevens (“Stevens” or “plaintiff”), proceeding pro se, filed a motion to proceed in forma pauperis in an action against the Town of Snow Hill, N.C. (“Snow Hill”), County of Greene, N.C. (“Greene County”), and Lenoir Community College and Foundation, N.C. (“LCC”) (collectively, “defendants”) [D.E. 1]. On September 17, 2020, Stevens filed a complaint asserting claims under 42 U.S.C. § 1983, 18 U.S.C. §§ 241, 242, and 245, and North Carolina state law [D.E. 10]. On October 19, 2020, the court adopted Magistrate Judge Robert B. Jones, Jr.’s Memorandum and Recommendation (“M&R”), granted Stevens’s motion to proceed in forma pauperis, and dismissed Stevens’s claims arising under 18 U.S.C. §§ 241, 242, and 245 [D.E. 9, 12]. On January 11, 2021, LCC moved to dismiss Stevens’s complaint for failure to state a claim upon which relief can be granted [D.E. 31], and filed a memorandum and exhibits in support [D.E. 32]. On January 13, 2021, Greene County and Snow Hill also moved to dismiss for failure to state a claim [D.E. 36, 37], and filed respective memoranda and exhibits in support [D.E. 35, 38]. On February 4, 2021, Stevens responded in opposition to LCC [D.E. 40]. The following day, Stevens

responded in opposition to Snow Hill and Greene County and filed exhibits in support [D.E. 41, 42].¹ On February 18, 2021, LCC replied [D.E. 43]. The following day, Snow Hill replied [D.E. 44]. On April 13, 2021, Stevens moved for entry of default judgment against Greene County [D.E. 45]. On April 14, 2021, Greene County responded in opposition [D.E. 46]. As explained below, the court grants defendants' motions to dismiss, denies Stevens's motion for entry of default judgment, and dismisses Stevens's complaint.

I.

Stevens's claims center around her desire to lead community development and historical preservation efforts concerning the historic Rosenwald School in Snow Hill, North Carolina. See [D.E. 10] 4–5. In 1997, the Greene County Board of Education deeded land containing the school building, a baseball field, and various other buildings to LCC. See [D.E. 32-1, 35-2]. On July 1, 2004, LCC leased the Rosenwald school to William Warren (“Warren”). See [D.E. 32-3]. In October 2013, LCC terminated Warren's lease due to the hazardous condition of the building. See [D.E. 32-4, 32-5].

Stevens alleges that she acted as the chief executive officer of the Rosenwald Center, a community development organization in Snow Hill. See Compl. [D.E. 10-1] 2–3. Stevens claims that the Rosenwald school building was “given to [Stevens] by Greene County Board of Education in 1999 after Hurricane Floyd[.]” Id. at 5. According to Stevens, in 2004, LCC locked Stevens out of her office in the Rosenwald school building. See id. at 3, 10. Stevens also alleges that on October 14, 2019, she was not permitted to speak at a public forum held by Snow Hill. See id. at 8–10.

¹ The court will not address any new arguments that Stevens raises in her response. Statements in briefing that “raise new facts constitute matters beyond the pleadings and cannot be considered on a Rule 12(b)(6) motion.” E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc., 637 F.3d 435, 449 (4th Cir. 2011).

Stevens names LCC, Greene County, and Snow Hill as defendants. See [D.E. 10] 3. In count four, Stevens seeks relief against all defendants for violating her right to freedom of speech under the First Amendment. See Compl. at 8–9. In count five, Stevens seeks relief for defamation against all defendants. See id. at 9–10. In count six, Stevens seeks relief for “discrimination and failure to consider” against all defendants. Id. at 10–11. In count seven, Stevens seeks relief for interference with prospective economic advantage against all defendants. See id. at 11. Stevens seeks injunctive relief and monetary damages. See id. at 12–13; [D.E. 10] 4.

II.

A motion to dismiss under Rule 12(b)(6) tests the complaint’s legal and factual sufficiency. See Ashcroft v. Iqbal, 556 U.S. 662, 677–80 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 554–63 (2007); Coleman v. Md. Court of Appeals, 626 F.3d 187, 190 (4th Cir. 2010), aff’d, 566 U.S. 30 (2012); Giarratano v. Johnson, 521 F.3d 298, 302 (4th Cir. 2008). To withstand a Rule 12(b)(6) motion, a pleading “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Iqbal, 556 U.S. at 678 (quotation omitted); see Twombly, 550 U.S. at 570; Giarratano, 521 F.3d at 302. In considering the motion, the court must construe the facts and reasonable inferences “in the light most favorable to [the nonmoving party].” Massey v. Ojaniit, 759 F.3d 343, 352 (4th Cir. 2014) (quotation omitted); see Clatterbuck v. City of Charlottesville, 708 F.3d 549, 557 (4th Cir. 2013), abrogated on other grounds by Reed v. Town of Gilbert, 576 U.S. 155 (2015). A court need not accept as true a complaint’s legal conclusions, “unwarranted inferences, unreasonable conclusions, or arguments.” Giarratano, 521 F.3d at 302 (quotation omitted); see Iqbal, 556 U.S. at 678–79. Rather, a plaintiff’s factual allegations must “nudge[] [her] claims,” Twombly, 550 U.S. at 570, beyond the realm of “mere possibility” into “plausibility.” Iqbal, 556 U.S. at 678–79.

The standard used to evaluate the sufficiency of the pleading is flexible, “and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers[.]” Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam) (quotation omitted). Erickson, however, does not “undermine [the] requirement that a pleading contain ‘more than labels and conclusions.’” Giarratano, 521 F.3d at 304 n.5 (quoting Twombly, 550 U.S. at 555); see Iqbal, 556 U.S. at 677–83; Coleman, 626 F.3d at 190; Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc., 591 F.3d 250, 255–56 (4th Cir. 2009); Francis v. Giacomelli, 588 F.3d 186, 193 (4th Cir. 2009).

When evaluating a motion to dismiss, a court considers the pleadings and any materials “attached or incorporated into the complaint.” E.I. du Pont de Nemours & Co., 637 F.3d at 448; see Fed. R. Civ. P. 10(c); Goines v. Valley Cmty. Servs. Bd., 822 F.3d 159, 165–66 (4th Cir. 2016); Thompson v. Greene, 427 F.3d 263, 268 (4th Cir. 2005). A court also may consider a document submitted by a moving party if it is “integral to the complaint and there is no dispute about the document’s authenticity” without converting the motion into one for summary judgment. Goines, 822 F.3d at 166. “[I]n the event of conflict between the bare allegations of the complaint and any exhibit attached . . . , the exhibit prevails.” Id. (quotation omitted); see Fayetteville Invs. v. Com. Builders, Inc., 936 F.2d 1462, 1465 (4th Cir. 1991). Additionally, a court may take judicial notice of public records. See, e.g., Fed. R. Evid. 201; Tellabs, Inc. v. Makor Issues & Rts., Ltd., 551 U.S. 308, 322 (2007); Philips v. Pitt Cnty. Mem’l Hosp., 572 F.3d 176, 180 (4th Cir. 2009).

Defendants’ motions to dismiss require the court to consider North Carolina state law claims. Accordingly, this court must predict how the Supreme Court of North Carolina would rule on any disputed state law issues. See Twin City Fire Ins. Co. v. Ben Arnold-Sunbelt Beverage Co. of S.C., 433 F.3d 365, 369 (4th Cir. 2005). In doing so, the court must look first to opinions of the Supreme Court of North Carolina. See id.; Parkway 1046, LLC v. U.S. Home Corp., 961 F.3d 301, 306 (4th

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Entered at the direction of the panel: Judge Niemeyer, Judge Thacker, and Judge Richardson.

For the Court

/s/ Patricia S. Connor, Clerk