

APPENDIX

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Appendix A

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In the
United States Court of Appeals
For the Eleventh Circuit

No 23-14015

VISHRUT AMIN
JIGARBHAI AMIN,

Plaintiffs-appellants,

versus

JUDGE CARLA R PEPPERMAN,

In her individual capacity and official ,
Capacity as County Judge, in and for Lake
County. Florida,

Defendant-Appellee

Appeal from United States District Court

For the Middle District of Florida

D.C. Docket No. 8:23-cv-02345-KKM-JSS

JUDGEMENT

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this court.

Entered July 10, 2024

For the Court: David J. SMITH, Clerk of Court

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Appendix B

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[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No 23-14015

Non- Argument Calendar

VISHRUT AMIN
JIGARBHAI AMIN,

Plaintiffs-appellants,

versus

JUDGE CARLA R PEPPERMAN,

In her individual capacity and official ,
Capacity as County Judge, in and for Lake
County. Florida,

Defendant-Appellee

Appeal from the United States District Court
For the Middle District of Florida
D.C. Docket No : 8:23-cv-02345-KKM-JSS

Before BRASHER, ABUDU, AND MARCUS, Circuit
Judges

PÉR CURIAM:

Vishrut Amin and Jigarbhai N Amin proceeding *pro se*, sued state judge Carla R Pepperman, county judge for the Fifth Judicial Circuit in and for Lake county, Florida, under 42 U.S.C. § 1983, alleging that she deprived them of their Fourth, Fifth and Fourteenth Amendments rights and acted in a discriminatory and retaliatory manner towards them in connection with certain rulings and other conduct in a state court proceedings to which they are a party. They appeal that district court's sua sponte dismissal of their second amended complaint with prejudice as shotgun pleading, arguing that dismissal was unwarranted and requesting additional relief from this court apart from review of district courts final judgment. Judge Pepperman argues that regardless of whether dismissal on shotgun pleading grounds was warranted, the claims are barred by judicial immunity. After careful review we affirm.¹

Whether an official is an entitled to judicial immunity is question of law we review De Novo. *Stevens v. Osuna*, 877 F. 3d 1293, 1301 (11th circuit 2017). To determine whether a defendant is entitled to absolute immunity, we accept as true the allegations of the

complaint and any reasonable inferences that may be drawn from them. *Long v. Satz*, 181 F. 3d, 1275, 1278 (11th circuit 1999). We can affirm for any reason supported by the record, even if the district court did not rely on that reason. *Wright v. City of St. Petersburg*, 833 F. 3d. 1291, 1294 (11th circuit 2016).

“judges are entitled to absolute judicial immunity from damages for those acts taken while their acting in their judicial capacity unless they acted in the clear absence of all jurisdiction”. *Bolin v. Story*, 225 F. 3d. 1234, 1239 (11th Circuit 2000) (Quotations omitted). “This immunity applies even when the judges acts are in error, malicious, or were in excess of his or her jurisdiction.” *Id.* Absolute immunity also applies to claims made in individual capacity. *Stevens*, 877 F 3d. at 1300-01, 1304-08 (applying absolute immunity where the plaintiffs claims were against the judge in his individual capacity). Absolute immunity flows from the “nature of the responsibilities of the individual official,” and it extends to state court judges. *Id.* At 1301-02 (Quotations omitted).

Whether a judges actions were made while acting in his judicial capacity depends on whether: (1) The act complained of constituted a normal judicial function; (2) The events occurred in judges chambers or in open court; (3) The controversy involved a case pending before the judge; and (4) The confrontation arose immediately out of visit to the judge in his judicial capacity.

Sibly v. Lando, 437 F. 3d. 1067, 1070 (11th circuit 2005).

Under Florida law, Florida “[c]ircuit courts shall have exclusive original jurisdiction.... [i]n all actions at law not cognizable by the county courts.” Fla. Stat. 26.012 (2)(a). Florida “[c]ounty courts shall have original jurisdiction...[o]f all actions at law , except those within the exclusive jurisdiction of circuit courts, in which the matter in controversy does not exceed, exclusive of interest, cost and attorney fees:.... \$30,000,” if filed on or after January 1st 2020. Id. § 34.01 (1)(c).

Here, regardless of whether The District court dismissal of the case on shotgun pleading ground was improper—an issue we need not reach—dismissal was never the less warranted because the Amins claims are barred by judicial immunity.² As the record makes clear, the actions that formed the basis of Amins claims falls squarely within Judge Pepperman’s judicial capacity. Indeed, issuing orders resolving motions and regulating the court’s docket are all actions that constitutes normal judicial functions, and the actions here involved a case pending before Judge Pepperman. *See Sibley*, 437 F. 3d. at 1070-71. Thus, Judge Pepperman is entitled to absolute judicial immunity so long as she did not act in the “clear absence of all jurisdiction” *Bolin*, 225 F.3d. at 1239 (Quotations omitted.) She did not. Judge Pepperman had jurisdiction to here the state court action filed against the Amins and she undertook the relevant conduct in the context of those proceedings accordingly we affirm.³

AFFIRMED,

¹ in addition , Attorney David Asti’s motion to withdraw as counsel for Appellee is DRANTED.

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² We recognize that Judge Pepperman is raising the affirmative defense of judicial immunity for the first time on appeal. Ordinarily, we will not consider issues raised for the first time on appeal. *Access now, Inc v. SW. Airlines Co.*, 385 F. 3d. 1324, 1331-32 (11th Cir. 2004). However, The Amins complaint was dismissed with prejudice on November 20, 2023 before judge Pepperman was due to file a responsive pleading, so she had no chance to assert the affirmative defense of judicial immunity, thus we will consider the issue, especially since it is a pure question of law and its proper resolution is beyond any doubt. *Id.* at 1332.

³ Additionally, to the extent the Amins seek relief apart from their appeal from the district court's dismissal order, their request – which asked for, among other things, disciplinary proceedings against judge pepperman and an order directed at the U.S. Marshal—is outside the bounds of our appellate jurisdiction and we can not consider it. See *Thomas v. Blue Cross & Blue Shield Ass'n*, 594 F. 3d. 823, 828 (11th Cir. 2010)(explaining that our appellate jurisdiction is limited to, aside from instances not at issue here, “Appeals from final decisions of the district court”).

Appendix C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

VISHRUT AMIN
JIGARBHAI N AMIN,

Plaintiff,

v. Case No:8:23-cv-02345-KKM-JSS

JUDGE CARLA R. PEPPERMAN,
Individually, and in her official capacity,

Defendant.

ORDER

On October 16, 2023, Vishrut Amin and Jigarbhai Amin, proceeding Pro Se, filed suit against the honorable Carla R. Pepperman, county judge for the Fifth judicial circuit in and for the Lake county, Florida. Compl. (Doc 1). Plaintiffs alleged that judge Pepperman deprived them of constitutional rights under Fourth, Fifth and Fourteenth Amendments, in violation of 42 U.S.C. § 1983, by conducting certain state court proceeding via zoom. Compl. at 3, 7. Plaintiffs also claimed to be victim of discrimination and retaliation under title VI of civil rights act of 1964. See Id. at 7. Because the complaint was an impermissible shotgun pleading, the court dismissed it with leave to amend. See *Weiland v. Palm Beach Cnty, Sheriff's Off.*, 792 F.3d 1313, 1320 (11th Circuit 2015); Dismissal order (Doc. 3) at 4. Plaintiffs then filed an amended complaint that was also dismissed as shotgun

pleading. Am. Compl. (Doc. 5); 2d. Dismissal order (Doc.7), Both times , the court warned plaintiffs that submitting another shotgun pleading would result in the action being “ dismissed without further notice.” Dismissal order at 4; 2d. dismissal order at 4. Plaintiffs have since filed a timely second amended complaint. 2d. Am. Compl. (Doc.16). Because this filing , too, is an impermissible shotgun pleading, the action is dismissed with prejudice.

Federal Rule of Civil Procedure 8(a)(2) requires that a complaint include “ a short and plain statement of the claim showing that the pleader is entitled to relief” Rule 10(b) provides that “ [a] Party must states its claim or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” FED. R. CIV.P And “[i]f doing so would promote clarity, each claim founded on a separate transaction or occurrence... must be stated in separate count.” Id, “Complaints that violate either rule 8(a)(2) or Rule 10(b) , or both are often disparagingly referred to as ‘shotgun pleadings’.” *Weiland*, 792 f. 3d. at 1320. The eleventh circuit has explained that such complaints are “ all to gather unacceptable” because they “exact and intolerable toll on the trial court’s docket.” *Cramer v. State of Fla.*, 117 F.3d. 1258, 1263 (11th Cir.1997). and although *pro se* pleadings are to be construed liberally and held to a less stringent standard than those drafted by attorneys , the court has “little tolerance for shotgun pleadings.” *Vibe Micro, Inc. v. Shabanets*, 878 F. 3d. 1291, 1295 (11th Cir 2018) (Explaining that a district court has the inherent authority to dismiss a complaint as a shotgun pleading but that the court must “ sue sponte allow a litigant one chance to remedy such deficiencies”) ; see also *Moon v. Newsome*, 863 F.2d. 835, 837 (11th Cir 1989)(“[O]nce a pro se ... litigants is in court, he is subject to the relevant law

and rules of court, including the federal rules of civil procedure.”(Emphasis omitted).

The 11th Circuit has recognized four basic types of shotgun pleadings: (1) A complaint that contains multiple counts where each count adopts the allegations of all preceding counts; (2) A complaint that is replete with conclusory, vague and immaterial facts not obviously connected to any particular cause of actions; (3) a complaint that fails to separate into different counts Each cause of actions or claims for relief; and (4) a complaint that assert multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions or which of the defendant the claim is brought against. *Weiland*, 792 F. 3d. at 1321-23. But “[T]he unifying characteristics of all types of shotgun pleadings is that they failed to one degree or another and in one way or another to give defendants adequate notice of the claims against them and the grounds upon which each claims rests.” *Id.* at 1323 (footnote omitted).

The first amended complaint was dismissed as shotgun pleadings for committing “the mortal sin” of incorporating the allegations of each proceeding count in to the next such that count III incorporated the entire amended complaint. *Weiland*, 792 F.3d. at 1322; 2d. dismissal order at 3-4. Despite notice and grant of leave to amend , the second amended complaint contains the same fatal flaw. *Weiland*, 792 F.3d. at 1321 (“ the most common type-by a long shot-is a complaint containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint.”(Footnote omitted)); 2d. am. Compl. ¶ ¶ 50, 55, 60, 67. Thus –like each of plaintiffs pleadings to date- the second amended complaint is an

impermissible shotgun pleading. *Weiland*, 792 F.3d. at 1320.

Accordingly, the following is **ORDERED**;

1. Plaintiffs second amended complaint (Doc. 16) is **DISMISSED** with prejudice.
2. The clerk is directed to **ENTER JUDGMENT**, which shall read "This case is dismissed with prejudice," and to **CLOSE** this case.

ORDERED IN Tampa, Florida, on November 20, 2023.

Sd/ Kathryn Kimball Mizelle

Kathryn Kimball Mizelle
United States District Judge

Appendix D

Relevant Constitutional and Statutory Provisions

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