APPENDIX A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEANDRE ARNOLD, also on behalf of Plaintiff T.A. as next of kin,

Plaintiffs,

v.

Case No. 8:23-cv-2708-TPB-TGW

TYARIELLE PATTERSON,

Defendant.
_____/

ORDER DISMISSING CASE

This matter is before the Court *sua sponte* on the complaint, filed *pro se* on December 4, 2023. (Doc. 1). After reviewing the complaint, court file, and the record, the Court finds as follows:

This case is related to an ongoing child custody dispute and case currently pending in the Sixth Judicial Circuit in and for Pinellas County, Florida. As explained below, this matter does not belong in federal court.

Plaintiff Deandre Arnold filed this suit, on behalf of his minor child and himself, against the mother of his child. The complaint is lengthy and rambling, but it appears that the instant lawsuit is related to an ongoing custody dispute in the Sixth Judicial Circuit in and for Pinellas County, Florida. According to Plaintiff, on December 13, 2017, the state court entered a custody order and child support order. Plaintiff alleges that since the entry of the support order, Defendant has used enforcement of the order to "blackmail and extort" Plaintiff in an effort to avoid potential liability for Plaintiff's allegations of interference with parenting time. Specifically, Plaintiff claims that for the

last five years, whenever he complains that Defendant is interfering with his parenting time, Defendant has used the court-ordered child support in a scheme to maliciously threaten Plaintiff through sudden contempt filings with the state court that carry the threat of incarceration. Plaintiff brings claims for intentional infliction of emotional distress, breach of fiduciary duty, and punitive damages. He seeks both compensatory damages for the alleged interference with Plaintiff's parenting time and for intentional infliction of emotional distress, along with punitive damages.

Plaintiff's complaint suffers from a number of critical defects. First, the complaint appears to possibly take issue with state court rulings, orders, and judgments, including a parenting plan implemented and enforced by the state court and contempt proceedings. His claims are therefore likely barred by the *Rooker-Feldman* doctrine because he essentially seeks review of state court proceedings and rulings. "It is well-settled that a federal district court lacks jurisdiction to review, reverse, or invalidate a final state court decision." *Dale v. Moore*, 121 F.3d 624, 626 (11th Cir. 1997) (citations omitted). This jurisdictional bar "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." *Incorvaia v. Incorvaia*, 154 F. App'x 127, 128 (11th Cir. 2005) (quoting *Goodman ex. rel Goodman v. Sipos*, 259 F. 3d 1327, 1332 (11th Cir. 2001)).

Second, to the extent that Plaintiff is asking the Court to intervene in an ongoing state court proceeding, the Court would abstain from doing so under the *Younger* abstention doctrine.[1] Under the *Younger* abstention doctrine, "federal courts ordinarily

[1] 401 U.S. 37 (1971) (holding that a federal court should decline to intervene in a state criminal prosecution absent a showing of bad faith, harassment, or a patently invalid state statute).

must refrain from deciding the merits of a case when (1) there is a pending state judicial proceeding; (2) the proceeding implicates important state interests; and (3) the parties have an adequate opportunity to raise any constitutional claims in the state proceeding." *See Newsome v. Broward Cty. Pub. Defenders*, 304 F. App'x 814, 816 (11th Cir. 2008) (citing *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982)). Upon consideration of these factors, the Court finds that abstention is warranted to the extent that any of the state court proceedings referenced in the complaint remain active and pending. The Court notes that it appears the parenting plan remains in effect and is being enforced by the state court, and if Plaintiff believes that Defendant is interfering with or obstructing the plan, he may raise those claims in the state proceeding.

Perhaps most importantly, this action appears to fall squarely within the domestic relations exception to federal court jurisdiction. *See Moussignac v. Ga. Dep't of Human Res.*, 139 F. App'x 161, 162 (11th Cir. 2005) ("The federal judiciary has traditionally abstained from deciding cases concerning domestic relations. As a result, federal courts generally dismiss cases involving divorce and alimony, child custody, visitation rights, establishment of paternity, child support, and enforcement of separation or divorce decrees still subject to state court modification."); *Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992) (the subject of domestic relations belongs to the States); *Cox v. 10th Judicial Circuit*, 8:22-cv-75-CEH-JSS, 2022 WL 1005279, at *1-2 (M.D. Fla. Mar. 10, 2022) (explaining domestic relations exception and recommending dismissal of complaint related to parenting plan), *report and recommendation adopted*, 2022 WL 1001498 (M.D. Fla. Apr. 4, 2022); *Weiner v. Campbell*, No. 8:16-cv-3412-T-36TGW, 2016 WL 7708540, at *3 (M.D. Fla. Dec. 22, 2016) (noting that "federal courts lack jurisdiction to determine

issues of parental time-sharing" and recommending dismissal of the complaint), *report and recommendation adopted*, 2017 WL 89076 (M.D. Fla. Jan. 10, 2017).

For all of the different reasons discussed above, this action is dismissed for lack of subject matter jurisdiction. Courts possess authority to *sua sponte* dismiss an action but are generally required to provide a plaintiff with notice of the intent to dismiss and give them an opportunity to respond. *Quire v. Smith*, No. 21-10473, 2021 WL 3238806, at *1 (11th Cir. July 30, 2021) (citing *Tazoe v. Airbus S.A.S.*, 631 F.3d 1321, 1336 (11th Cir. 2011)). "An exception to this requirement exists, however, when amending the complaint would be futile, or when the complaint is patently frivolous." *Id.* (citing *Tazoe*, 631 F.3d at 1336). Because amendment would be futile, the case is dismissed without leave to amend.

Accordingly, it is

ORDERED, **ADJUDGED**, and **DECREED**:

(1) The complaint (Doc. 1) is **DISMISSED**, without leave to amend.

(2) The Clerk is directed to terminate any pending motions and deadlines, and thereafter close this case.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 19th day of December, 2023.

TOM BARBER
UNITED STATES DISTRICT JUDGE

APPENDIX B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEANDRE ARNOLD, also on behalf of
Plaintiff T.A. as next of kin,

Plaintiffs,

v. Case No. 8:23-cv-2708-TPB-TGW

TYARIELLE PATTERSON,

Defendant.
_____/

ORDER DENYING PLAINTIFF'S CONSTRUED MOTION TO PROCEED ON APPEAL WITHOUT COSTS

This matter is before the Court on Plaintiff Deandre Arnold's *pro se* construed motion to proceed on appeal without costs. (Doc. 11).

Under certain circumstances, a party may proceed *in forma pauperis* in federal court pursuant to 28 U.S.C. § 1915, which authorizes any court of the United States to allow indigent persons to prosecute, defend, or appeal suits without prepayment of costs. *See, e.g.*, 28 U.S.C. § 1915; *Coppedge v. United States*, 369 U.S. 438, 441 (1962). However, a party may not proceed on appeal *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). Good faith requires that the appeal present a nonfrivolous question for review. *Cruz v. Hauck*, 404 U.S. 59, 62 (1971). If the plaintiff has little or no chance of success, an appeal is frivolous. *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993). An appeal is also frivolous when it is "without arguable merit either in law or fact." *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001).

Plaintiff's construed motion to appeal without costs fails to establish the existence of a reasoned, nonfrivolous argument raised on appeal. In fact, the motion does not present *any* issues that Plaintiff intends to present on appeal as required by Fed. R. App. P. 24(a)(1)(C). The motion to proceed without costs on appeal (Doc. 11) is denied.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 23rd of January, 2024.

TOM BARBER
UNITED STATES DISTRICT JUDGE

APPENDIX C

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

For rules and forms visit
www.ca11.uscourts.gov

June 25, 2024

Deandre Arnold
7757 RUTGERS CIR
FAIRBURN, GA 30213

Appeal Number: 24-10188-F
Case Style: Deandre Arnold v. Tyarielle Patterson
District Court Docket No: 8:23-cv-02708-TPB-TGW

The enclosed order has been ENTERED.

Electronic Filing
All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, 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 on the Court's website.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

MOT-2 Notice of Court Action

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10188

DEANDRE ARNOLD,
on behalf of T.A. as next of kin,

Plaintiff-Appellant,

versus

TYARIELLE PATTERSON,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:23-cv-02708-TPB-TGW

ORDER:

Deandre Arnold filed a *pro se* complaint against Tyarielle Patterson, stemming from child custody proceedings pending in Florida. The complaint alleged that Arnold and Patterson were the parents of a minor child and that a Florida state court had entered custody and child support orders related to their child. Arnold asserted that, for the past five years, after he would complain that Patterson was hindering his parenting time with their child, Patterson would counter by seeking enforcement of the child-support order due to his alleged failure to make the payments. He purported to bring state-law claims of intentional infliction of emotional distress and breach of fiduciary duty.

The district court dismissed the complaint, finding that it fell within the domestic relations exception to federal court jurisdiction. It thus dismissed the complaint for lack of subject matter jurisdiction without leave to amend, explaining that any amendment would be futile.

Arnold appealed, and now moves this Court for leave to proceed *in forma pauperis* ("IFP"). Because Arnold seeks leave to proceed IFP, his appeal is subject to a frivolity determination. *See* 28 U.S.C. § 1915(e)(2)(B). An action "is frivolous if it is without arguable merit either in law or fact." *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001).

Here, Arnold does not have any non-frivolous arguments on appeal. *See id.* The district court properly concluded that his complaint fell within the domestic relations exception to diversity jurisdiction, as Arnold's claims stemmed from the custody and

child-support orders relating to their child, an area from which federal courts should generally abstain. *See Ingram v. Hayes*, 866 F.2d 368, 389 (11th Cir. 1988) (stating that "federal courts generally dismiss cases involving divorce and alimony, child custody, visitation rights, establishment of paternity, child support, and enforcement of separation or divorce decrees still subject to state modification."). Arnold's allegations contend that Patterson utilized these orders to prevent Arnold from parenting their child, and a determination of these claims would necessarily implicate the enforcement of these orders.

Accordingly, Arnold's motion for leave to proceed IFP is DENIED.

UNITED STATES CIRCUIT JUDGE

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

For rules and forms visit
www.ca11.uscourts.gov

July 17, 2024

Clerk - Middle District of Florida
U.S. District Court
801 N FLORIDA AVE
TAMPA, FL 33602-3849

Appeal Number: 24-10188-F
Case Style: Deandre Arnold v. Tyarielle Patterson
District Court Docket No: 8:23-cv-02708-TPB-TGW

The enclosed copy of the Clerk's Order of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4.

Any pending motions are now rendered moot in light of the attached order.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

DIS-2 Letter and Entry of Dismissal

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 24-10188-F

DEANDRE ARNOLD,
on behalf of T.A. as next of kin,

Plaintiff - Appellant,

versus

TYARIELLE PATTERSON,

Defendant - Appellee.

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

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Deandre Arnold has failed to pay the filing and docketing fees to the district court within the time fixed by the rules; Motion for recusal filed by Appellant Deandre Arnold is DENIED as MOOT. [10239274-2]; Motion for Leave to File Appellant's Appendix Out of Time filed by Appellant Deandre Arnold is DENIED as MOOT. [10190749-2].

Effective July 17, 2024.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEANDRE ARNOLD, *et al.*,
Plaintiffs,
v. CASE NO. 8:23-cv-2708-TPB-TGW

TYARIELLE PATTERSON,
Defendant.
_____/

REPORT AND RECOMMENDATION

The plaintiff filed an affidavit of indigency pursuant to 28 U.S.C. 1915 (Doc. 2), seeking a waiver of the filing fee for his 99-page complaint, alleging claims of intentional infliction of emotional distress and breach of fiduciary duty in connection with a child custody dispute (Doc. 1).

The complaint is a shotgun pleading that does not comply with the Federal Rules of Civil Procedure. I therefore recommend that the plaintiff's complaint (Doc. 1) be dismissed, with leave to file an amended complaint.

I.

Under 28 U.S.C. 1915(a)(1), the court may authorize the filing of a civil lawsuit without prepayment of fees if the plaintiff submits an affidavit that includes a statement of all assets showing an inability to pay

the filing fee and a statement of the nature of the action which shows that he is entitled to redress. Even if the plaintiff proves indigency, the case shall be dismissed if the action is frivolous or malicious, or fails to state a claim upon which relief may be granted. 28 U.S.C. 1915(e)(2)(B)(i), (ii).

Furthermore, although "allegations of a pro se complaint [are held] to less stringent standards than formal pleadings drafted by lawyers .... this leniency does not give a court license to serve as de facto counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action." Campbell v. Air Jamaica Ltd., 760 F.3d 1165, 1168-69 (11th Cir. 2014).

II.

As indicated, the plaintiff's complaint is inadequate because it does not comply with the Federal Rules of Civil Procedure. Specifically, Rule 8(a)(2), F.R.Civ.P., requires a short and plain statement of the claim showing that the pleader is entitled to relief. See McNeil v. United States, 508 U.S. 106, 113 (1993) (pro se litigants must comply with procedural rules that govern pleadings). The plaintiff's complaint, which is 99 pages long, inclusive of exhibits, is anything but plain and short. It is a rambling summary of the plaintiff's custody disputes with his child's mother since

2017. It is replete with irrelevant information, conclusions, and scurrilous accusations against the defendant.

Furthermore, the complaint is a form of a shotgun pleading which is condemned by the Eleventh Circuit. Barmapov v. Amuial, 986 F.3d 1321, 1324 (11th Cir. 2021) (Shotgun pleadings "are flatly forbidden by the spirit, if not the letter, of these rules."). A "shotgun pleading" forces the court to sift through the facts presented and decide for itself which are material to the particular claims asserted. Anderson v. District Board of Trustees of Central Florida Community College, 77 F.3d 364, 366-67 (11th Cir. 1996).

The Eleventh Circuit elaborated on shotgun complaints:

> "[W]e have identified four rough types or categories of shotgun pleadings." *Weiland,* 792 F.3d at 1321. The first 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." *Id.* The second is a complaint that is "replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action." I*d.* at 1322. The third is a complaint that does not separate "each cause of action or claim for relief" into a different count. *Id.* at 1323. And the final type of shotgun pleading is a complaint that "assert[s] multiple claims against multiple defendants without specifying which of

> the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against." *Id.*

Barmapov v. Amuial, supra, 986 F.3d at 1324–25.

This complaint is unquestionably a shotgun pleading. There are 45 pages of factual allegations before the first count of the claim. Compounding the problem is that the plaintiff incorporates more than two hundred purported factual allegations into each cause of action (see Doc. 1, p. 49 ("Plaintiff repeats & realleges par. 9 – 254 as if fully alleged herein...."); id., p. 52 ("Plaintiff repeats and realleges paragraphs 9 – 253 as if fully alleged herein ....")). Thus, the plaintiff's complaint falls under the first and second categories of an impermissible shotgun pleading.

Therefore, even construing the plaintiff's complaint liberally, Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998), the plaintiff's complaint should be dismissed. See Barmapov v. Amuial, supra, 986 F.3d at 1324-25. However, it is appropriate to permit the plaintiff to file an amended complaint. Thus, the district court generally may not dismiss an in forma pauperis complaint without allowing leave to amend as permitted under Rule 15, F.R.Civ.P. See Troville v. Venz, 303 F.3d 1256, 1261 n.5 (11th Cir. 2002); 28 U.S.C. 1915(e)(2)(B)(ii).

In this regard, the plaintiff is advised that he should not — as he did this time — set forth a rambling list of events and circumstances. Further, each count should be supported within that count by a short and plain statement of relevant facts that support that claim. Importantly, moreover, the opportunity to file an amended complaint does not mean that the complaint states a cognizable claim.

In sum, I recommend that the complaint be denied without prejudice to the plaintiff filing an amended complaint within 14 days, and ruling on the application to proceed in forma pauperis be deferred.

Respectfully submitted,

Thomas G. Wilson

THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE

DATED: December 11, 2023

NOTICE TO PARTIES

The parties have fourteen days from the date they are served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. 636(b)(1)(C). Under 28 U.S.C. 636(b)(1), a party's failure to object to this report's proposed findings and

recommendations waives that party's right to challenge on appeal the district court's order adopting this report's unobjected-to factual findings and legal conclusions.