No. #25M42

In The

Supreme Court of The United States

Samuel Ghee
Natural Person none Corporation
Petitioner
Vs.
FLIX NORTH AMERICA INC. parent company of
GREYHOUND LINES, INC
Officer George Moore, Personal Capacity
Officer Isaac Sanchez, Personal Capacity
Respondent

On Petition for a Writ of Certiorari to the United States

Court of Appeals for the 11th Circuit

APPENDIX
SUPPORTING
PETITION FOR A WRIT OF CERTIORARI

SAMUEL GHEE
P.O. Box 92120
Atlanta, Georgia 30314
Phone: 404 998-6144
gheesamuel@yahoo.com

Table of Content

District court Final Judgement and Order, 7/25/2024

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

SAMUEL GHEE,

Plaintiff,

CASE NO. 4:23-cv-00070(CDL)

Vs.

GEORGE MOORE,
personal capacity,
and ISSAC SANCHEZ
personal capacity

Defendants,

J U D G M E N T

Pursuant to this Court's Orders dated October 5, 2023 and July 25, 2024, and for the reasons stated therein, JUDGMENT is hereby entered dismissing this case. Plaintiff shall recover nothing of Defendants. Defendants shall recover costs of this action.

This 25th day of July, 2024.

David W. Bunt, Clerk
s/ Elizabeth S. Long, Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

SAMUEL GHEE,

Plaintiff,

Vs.

CASE NO. 4:23-cv-00070(CDL)

GEORGE MOORE,
personal capacity,
and ISSAC SANCHEZ
personal capacity

Defendants,

ORDER

Pending before the court are Defendants' motion for summary judgment (ECF No. 62) and Plaintiff's motion for judgement as a matter of law (ECF No. 68). For the reasons that follow, the Court grants Defendants' motion and denies Plaintiff's motion.[1]

[1] The Court also reviewed Plaintiff's two "notices." In the first notice Plaintiff asserts that the Court has no jurisdiction over this action because Plaintiff's previous motion to disqualify the undersigned and his motion to vacate "have not been refuted nor rebutted." Pl,'s Notice, ECF No. 71. The Court, though, denied both motions in a previous order (ECF No. 70). Plaintiff's second notice (ECF No. 74) appears to be a duplicate of Plaintiff's motion for judgment as a matter of law.

SUMMARY JUDGMENT STANDARD

Summary judgment may be granted only "if the movant shows that there is no genuine dispute as to any material fact and movant is entitled to judgment as a matter of law. "Fed. R. Civ. P. 56(a). In determining whether a genuine dispute of material fact exists to defeat a motion for summary judgment, the evidence is viewed in the light most favorable to the party opposing summary judgment, drawing all justifiable inferences in the opposing party's favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).[2] A fact is material if it is relevant or necessary to the outcome of the suit. *Id. at 248.* A factual dispute is genuine if the evidence would allow a reasonable jury to return a verdict for the nonmoving party. However, when video evidence "obviously contradicts (the non-moving party's) version of the facts, [the Court] accept[s] the video's depiction instead of [the non-moving party's] account. *Pourmoghani-Esfahani v. Gee,* 625 F.3d 1313, 1315 (11th Cir. 2010).

FACTUAL BACKGROUND

With these principles in mind, the record reveals the following facts. On December 6, 2022, Plaintiff Samuel Ghee was returning home from Selma, Alabama on a Greyhound bus to Atlanta, Georgia. Ghee asserts that he was conversing at a normal volume with the passenger seated next to him. But the bus driver, Shonda Kennan, called 911 when the bus sopped in Columbus, Georgia, stating that she needed to "put a man off the bus" who was "being

[2] Plaintiff's motion is styled as a motion for judgment as a matter of law under Federal Rule of Civil Procedure 50 (a). Rule 50 (a) only applies when "a party has been fully heard on an issue during a jury trial," which has not occurred here. Fed. R. Civ. Proc. 50 (a)(1). Considering the procedural posture of this action, and the fact that "[i]n essence, . . . the inquiry under" Rule 50 and Rule 56 "is the same," the Court evaluated Plaintiff's motion as one for summary judgment pursuant to Federal Rule of Civil Procedure 56 *Anderson,* 477 U.S. at 251.

rude, talking to [her] any kind of way," and "said [she] cannot put him off the bus." Audio of 911 Call Recording at 00:20-00:30, on file with the court.[3] According to Ghee, Kennan "made an unnecessary 911 call" containing" false statements about Plaintiff." Pl.'s Mem. In Supp. Of Pl.'s Mot. For J. as a Matter of Law 7, ECF No. 68-1 ("Pl.'s Mem.")[4]

Columbus police officers George Moore and Isaac Sanchez arrived at the Columbus Greyhound Terminal in response to Kennan's 911 call.[5] The entire encounter between Defendants and Ghee is recorded in Moore's body camera footage. Moore and Sanchez spoke to Ghee and Kennan to hear both sides of the story. *See, e.g.*, Moore Body Cam Video at 01:55-02:46; 03:00-03:35; 08:03-0845, on file with the Court.[6] They did not speak to other bus passengers, though Ghee asked that they do so. Throughout the encounter, Ghee and Kennan argued with each other, raised their voices, and spoke

[3] Kennan stated that she did not feel safe with Ghee on the bus because he was being disorderly and would not stop despite her multiple requests and a warning that she would put Ghee off the bus. Kennan Decl. 3-4,6,8, ECF No. 64. According to Kennan Greyhound policy allows a driver "who does not feel safe due to the behavior of a passenger" to pull over in a safe location, call the police, and remove the passenger from the bus. *Id.* 8.

[4] The Court cites to Ghee's Memorandum because the only affidavit of declaration that Ghee's filed pertaining to the motions currently pending before the Court was an affidavit which stated that all facts and statements contained in his Memorandum were "made in good faith to be true, correct, complete, and [] presented with personal knowledge and not meant to be misleading." Ghee Aff. 1, ECF No. 68-2.

[5] Defendant Sanchez's first name is misspelled in the caption of the Complaint as Issac instead of Isaac.

[6] The times cited throughout this Order are the minutes and seconds from the start of the video clip, not the times from the video's time stamp.

over each other. *Id.* at 01:55-02:46. Ghee Galled Kennan an idiot, said she was mentally disturbed, and told her not to "backstab" him. *Id.* At 05:04; 05:19; 07:17-07:18. Defendants assert that the behavior they observed from Ghee at the scene was consistent with what Kennan reported. Moore Decl. 5, ECF No. 65, Sanchez Decl. 5, ECR No. 66.

Defendants maintain that Kennan made the decision not to allow Ghee back onto the bus, not them, and that their role was merely to maintain security and prevent a physical altercation. *Id.* In the video footage, Defendants and Kennan consistently relayed this message to Ghee. *See, e.g.,* Moore Body Cam video at 01:35 (Moore: "She said she don't want you on this bus."); 02:00 (Kennan: "I am kicking you off this bus"); 03:35-03:36 (Moore: "She's putting you off the bus not me"); 08:35-09:15 (Sanchez explaining to Ghee that Greyhound is a private business that can refuse service); 15:38 (Moore: "they wanted you off the bus").

Defendants ensured that Ghee could retrieve his luggage. *Id.* At 08:35-09:15. Moore expressed concerns about Ghee being stuck in Columbus. *See, e.g., Id.* at 02:37 (Moore: "what is y'all's policy on just dropping people off?"); 03:47 (Moore: "How is he going to get where he's going?") 06:54(Moore: "I can't just let you leave him here"). Both Defendants attempted to help Ghee secure transportation from Columbus to Atlanta. *Id.* at 06:46 (Moore asks if Ghee can get on another bus currently parked at the

terminal); 12:55-14:30 (Moor and Sanchez ask another Greyhound driver how Ghee can get on another bus, with Moore asking if he will get a free ride or have to pay).

Ultimately, Defendants told Ghee he would need to call Greyhound's 800 number to inquire about the next bus to Atlanta, and they gave him their names and badge numbers before leaving the terminal. *Id.* at16:05 to 16:44. This is the sum total of Defendants' interactions with Ghee. Defendants assert, and Ghee does not dispute, that neither Defendant physically touched Ghee, physically removed him from the bus, physically restrained him, searched him, arrested him, displayed handcuffs or a weapon, or requested Ghee's identification. *See also id.* at 09:15 (Sanchez: "You're not going to jail.").

DISCUSSION

The motions presently pending before the court both involve two remaining claims in this action: (1) Ghee's claim under 42 U.S.C. §1983 that Defendants seized him in violation of his Fourth Amendment rights and (2) his claim under § that Defendants conspired with Greyhound's bus driver to interfere with his Fourth Amendment rights. In their dueling motions, Ghee and Defendants both argue that there is no genuine dispute of material fact as to these claims, such that they are entitled to judgment as a matter of law. The Court addresses each claim in turn.

I. Fourth Amendment Claim

Ghee claims that Defendants unlawfully seized him, in violation of the Fourth Amendment. Ghee does not assert that the officers arrested him or detained him; rather, he contends that Defendants seized him by impairing his "freedom of movement" when they prevented him from reboarding the Greyhound bus. Pl.'s Mem. 5. Defendants argue that they are entitled to qualified immunity on this claim because a reasonable jury could not conclude that they violated Ghee's Fourth Amendment rights, and even if they did, they did not violate clearly established law. The court agrees with Defendants.

Qualified immunity protects government officials exercising their discretionary functions from suit in their individual capacities unless the party opposing qualified immunity can show that the official's conduct violated "clearly established statutory of constitutional rights of which a reasonable person would have known." *Shaw v. City of Selma,* 884 F.3d 1093,1098-99 (11th Cir. 2018). Here, Ghee does not dispute that Moore and Sanchez acted within their discretionary authority in responding to the 911 call that precipitated their interaction.

The Fourth Amendment prohibits unreasonable seizures. An unreasonable seizure claim, of course, requires a "seizure." The Court finds that there is no genuine dispute of the fact here that would authorize a reasonable jury to conclude that Defendant

seized Ghee. "A 'seizure' under the Fourth Amendment occurs 'when the officer, by means of physical force or show of authority terminates or restrains (a person's) freedom of movement, through means intentionally applied." *Chandler v. Sec'y of Fla. Dep't of Transp.*, 695 F.3d 1194, 1199 (11th Cir. 2012) (quoting *Brendlin v. California*, 551 U.S. 249, 254 (2007)). "[A] person has been 'seized' . . . only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *Id.* (Alterations in original) (quoting *United States v. Mendenhall* 446 U.S. 544, 554, (1980)).

Ghee argues that when Defendants told him that he could not get back on the bus because Kennan refused to allow it, they seized him within the meaning of the Fourth Amendment. But this interference with Ghee's preferred method of travel did not constitute a fourth Amendment seizure. "The fact that a person is not free to leave on his own terms at a given moment. . . does not, by itself, mean that the person has been 'seized' within the meaning of the fourth Amendment." *Chandler*, 695 F.3d at 1199 (emphasis added); *see also Peery v. City of Miami,* 977 F.3d 1061, 1071 (11th Cir. 2020) ("A person who is told to leave one place but 'remains free to go anywhere else that he wishes' can undoubtedly terminate his encounter.") (Quoting *Salmon v. Blesser,* 802 F.3d 249, 253 (2d Cir. 2015)).

Here, Ghee was simply not free to leave the scene via the Greyhound bus driven by Kennan. Ghee, though, did not point to any evidence to dispute that he was free to terminate the encounter with Defendants and go *anywhere except that bus*. Defendants told Ghee he was not being arrested. They never physically detained him, never displayed handcuffs or a weapon, never told him he could not leave, and never requested his identification. All they did was inform Ghee that Kennan decided he could not get on the bus. There was no physical force or show of authority that would have led a reasonable person Ghee's shoe to believe that he could not terminate the encounter. Ghee could have left at any time, just not via the bus driven by Kennan. While this situation may have been inconvenient for Ghee, it was not a seizure under the Fourth Amendment.

Finally, even if Ghee could show a seizure, he did not demonstrate that Defendants' conduct violated clearly established law. "A right can be clearly established either by similar prior precedent, or in rare cases of obvious clarity." *Plowright v. Miami Dade Cnty.*, 102 F.4th 1358, 1366 (11th Cir. 2024) (quoting *Brooks v. Warden,* 800 F.3d 1295, 1306 (11th Cir. 2015)). Ghee did not point to a case finding similar conduct unlawful, and nothing in the record suggests that Defendants' conduct was "so bad that case law is not needed to establish that the conduct cannot be lawful." *Id.* at 1367 (quoting *Jones v. Fransen,* 857 F.3d 843, 852-

(11th Cir. 2017)). Accordingly, Defendants are entitled to qualified immunity on the §1983 Fourth Amendment claim.

II. Conspiracy Claim

Ghee also argues that Defendants conspired with Kennan to violate his Fourth Amendment rights. A §1983 conspiracy claim requires a showing that the defendants reached an understanding to deny Ghee his rights which resulted in an actual denial of some underlying constitution right. *Grider v. City of Auburn,*618 F.3d 1240, 1260 (11th Cir. 2010). As discussed above, Ghee did not present sufficient evidence for a jury to find that defendants committed a Fourth Amendment violation. Accordingly, his §1983 conspiracy claim fails. *See Spencer v. Benison,* 5 F.4th 1222, 1234 (11th Cir. 2021) (reversing the district court's denial of defendant's summary judgment motion on the plaintiff's §1983 conspiracy claim because the plaintiff "failed to establish an underlying violation of this constitutional rights").

CONCLUSION

For the foregoing reasons, Defendants' motion for summary judgment (ECF No. 62) is grants and Ghee's motion for judgment as a matter of law (ECF No. 68) is denied.

IT IS SO ORDERED, this 25th day of July, 2024.

S/Clay D. Land
Clay D. Land
U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA

5. 11th Circuit Final opinion on 8/20/2025

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12580

Non-Argument Calendar

SAMUEL GHEE

Plaintiff-Appellant

Versus

FLIX NORTH AMERICA, INC

GREYHOUND LINES INC.,

GEORGE MOORE,

ISSAC SANCHEZ,

Defendants-Appellees

Appeal from the United States District Court

For the Middle District of Georgia

D.C. Docket No. 4:23-cv-00070-CDL

Before JORDAN, BRANCH, and ANDERSON, Circuit Judges.

PRE CURIAM:

Samuel Ghee, proceeding pro se, appeals the district court's order granting the motion for summary judgment filed by Officers George Moore and Isaac Sanchez, as well as the district court order granting the motions to dismiss filed by Greyhound Lines, Inc. and Flix North America, Inc. (Greyhound's Parent company). Mr. Ghee also challenges the district court's order denying his motion for recusal. Following a review of the record and the parties brief we affirm.[7]

I

We summarize the facts, in in the light most favorable to Mr. Ghee, as set out in the district court's summary judgement order. *See* D.E. 75 at 2-5.

[7] Mr. Ghee has moved for default judgment on appeal on the ground that he never agreed to any extension for the appellees on file their briefs. We deny that motion because we have discretion to grant an extension without requiring a response. *See* Fed. R. App. P. 27(b).

On December 6, 2022, Mr. Ghee traveled from Selma. Alabama, to Atlanta, Georgia, on a Greyhound bus. The driver of the bus, Shonda Keenan, called 911 when the bus stopped in Columbus, Georgia, and stated that she had to "put a man off the bus" because he was disorderly and was "being rude, talking to [her] any kind of way." Ms. Keenan said Mr. Ghee did not cease his conduct despite her warning that she would put him off the bus. Grey hound's policy allows a driver who does not feel safe due to the behavior of a passenger to pull over in a safe location, call the police and remove the person from the bus

Mr. Ghee claimed that Ms. Keenan made an "unnecessary 911 call." He said that her statements about him and his behavior were false and denied misbehaving.

Officers Moore and Sanchez from the Columbus Police Department arrived at the Greyhound Terminal in response to the 911 call. The entire encounter between the Officers and Mr. Ghee was recorded by Officer Moore's body-worn camera.

The Officers spoke to both Ms. Keenan and Mr. Ghee- who continued to argue with each other-to get both sides of the story, but they did not speak to other passengers even though Mr. Ghee asked them to. Mr. Ghee called Ms. Keenan an idiot, said she was mentally disturbed, and told her not to backstab him. According to the Officers, this was consistent with Ms. Keenan's description of Mr. Ghee's behavior on the bus. Despite

the video, Mr. Ghee denies making the "backstab" comment.

Ms. Keenan told Mr. Ghee that she was "kicking [him] off this bus." At some point the Officers informed Mr. Ghee that Greyhound, a private company, could refuse him service and had decided it did not want him on the bus. The officers ensured that Mr. Ghee was able to retrieve his luggage and tried to help him secure transportation from Columbus to Atlanta. They gave Mr. Ghee Greyhound's toll-free number so that he could find out the next bus to Atlanta and provided him with their names and badge numbers. The Officers did not display their weapons or hand cuffs, did not touch Mr. Ghee, and did not remove him physically from the bus. Nor did the Officers restrain Mr. Ghee, search him, arrest him or ask for his identification.

II

We first address the recusal issue, which Mr. Ghee mentions only in the "Statement of the Case" portion of his brief. We do so because we review pro se filings liberally. *See Erickson v. Pardus*, 551 U.S. 89,94 (2007). But we do not act as *de facto* counsel for a pro se litigant like Mr. Ghee. *See Day v. McDonough*, 547 U.S. 198, 201-02 (2006); *Bilal v. Geo Care, LLC*, 981 F.3d 903, 911 (11th Cir. 2020).

A judge is required to recuse under 28 U.S.C. §455(a) when "an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality[.]" *United States v.*

Patti. 337 F.3d 1317, 1321, (11th Cir. 2003) (internal quotation marks and citation omitted). We review a recusal ruling for abuse of discretion. *See McWhorter v. City of Birmingham*, 906 F. 2d 674, 678 (11th Cir. 1990).

Mr. Ghee argues that the district judge demonstrated his bias and partiality based on his rulings in the case. See Appellant's Br. At 2-3, 17-19. Assuming that the recusal argument is sufficiently briefed, it lacks merit. As a general matter, recusal is not required when the challenged conduct consists of "judicial rulings, routine trial administration efforts, and ordinary admonishments[.]" *Liteky v. United States*, 510 U.S. 540, 556 (1994). And Mr. Ghee does not point to any "deep-seated and unequivocal antagonism" that might provide grounds for recusal. *See id.* The district judge therefore did not abuse his discretion in declining to recuse.

III

We next turn to the district court's grant of summary judgement in favor of the officers on Mr. Ghee's claims under 42 U.S.C. §1983. Our review is *de novo*. *See Anthony v. Georgia*, 69 F.4th 796, 804 (11th Cir. 2023). Summary judgment should be grand only if there is no genuine dispute of material fact, viewing the evidence in the light most favorable to the non-movant. *See id.* There is a genuine issue of material fact if sufficient

evidence is submitted for a jury to return a verdict for the non-movant. *See Stewart v. Happy Herman's Cheshire Bridge, Inc.*, 117 F.3d 1278, 1284-85 (11th Cir. 1997). "[U]nsubstantiated assertions alone are not enough to withstand a motion for summary judgment." *Anthony*, 69 F.4th at 804 (quotation marks omitted). Yet a "litigant's self-serving statements based on personal knowledge or observation can defeat summary judgment." *United States v. Stein*, 881 F.3d 853, 857 (11th Cir. 2018) (en banc).

A

The Fourth Amendment prohibits unreasonable searches and seizures. *See* U.S. Consti. Amend. IV. A seizure under the Fourth Amendment occurs "when the officer, by means of physical force or show of authority, terminates of restrains [a person's] freedom of movement, through means intentionally applied." *Brendlin v. California*, 551 U.S. 249, 254 (2007) (quotation marks, citations, and emphasis omitted). In determining which level of Fourth Amendment scrutiny to apply, the Supreme Court has generally identified three types of police-citizen encounters:

> (1) brief, consensual and non-coercive interactions that do not require Fourth Amendment scrutiny; (2) legitimate and restrained investigative stops short of arrests to which limited Fourth Amendment scrutiny is applied; and (3) technical arrests, full-blown searches or custodial detentions that lead to a stricter form of Fourth Amendment scrutiny

United States v. Perkins, 348 F.3d 965, 969 (11th Cir. 2003) (citations omitted).

"[A] person has been 'seized' . . . only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *United States v. Mendenhall*, 446 U.S. 544, 554 (1980). "The fact that a person is not free to leave on his own terms at a given moment, however, does not, by it itself, mean that the person has been 'seized' within the meaning of the Fourth Amendment." *Chandler v. Sec'y of the Fla. Dep't of Transp.*, 695 F.3d 1194,1199 (11th Cir. 2012). A police officer approaching an individual and asking a few questions does not constitute a seizure so long as a reasonable person would feel free to disregard the police. *See Florida v. Bostick*, 501 U.S. 429,434 (1991). "A person who is told to leave one place but remains free to go anywhere else that he wishes can undoubtedly terminate his encounter." *Peery v. City of Miami*, 977 F.3d 1061, 1071 (11th Cir. 2020) (quotation marks omitted). When analyzing whether a seizure has occurred, we consider relevant factors such as

> Whether a citizen's path is blocked of
> Impeded; weather identification is
> retained; the suspect's age, education and
> intelligence; the length of the suspect's detention and questioning; the number of police officer present; the display of weapons; any physical touching of the suspect, and the language and tone of voice
> of the police. officers present; the display of weapons; any physical touching of the suspect, and the language and tone of voice of the police.

United State v Perez, 443 F3d 772, 778 (11th Cir. 2006) (quotation marks omitted).

In his brief, Mr. Ghee complains that Ms. Keenan lied and that the Officers did not conduct a sufficient investigation. As a result, he says, the officers did not get to the bottom of the dispute between himself and Ms. Keenan. *See* Appellant's Br. At 16-17. He also asserts that the Officers lacked probable cause. *See id.* at 18-19.

As the district court correctly explained, the Offices never seized or arrested Mr. Ghee. And because they did not seize him or arrest him, they did not need probable cause. Contrary to Mr. Ghee's assertion, *see id.*at 26, the encounter with the Officers was a "brief, consensual and non-coercive interaction [] that do[es] not require Fourth Amendment Scrutiny." *Perkins*, 348 F.3d at 969.

B

To successfully assert a conspiracy claim under §1983, a plaintiff must show a conspiracy existed and that the conspiracy resulted in the actual denial of an underlying constitutional right. *See Grider v. City of Auburn*, 618 F.3d 1240. 1260 (11th Cir. 2010). "The plaintiff attempting to prove such a conspiracy must show that the parties' reached an understanding to deny the plaintiff his or her rights. The conspiratorial acts must impinge upon the federal right; the plaintiff must prove and actionable wrong to support the conspiracy." *Id.* (Quotation marks and citations omitted).

"[A]n agreement may be inferred from the relationship of the parties, their overt acts and concert of action, and the totality of their conduct[.]" *Am. Fed'n of Lab. & Cong. Of Indus. Orgs. V. City of Miami, Fla.*, 637 F.3d 1178,1192 (11th Cir. 2011) (quotation marks omitted).

The district court correctly granted summary judgement in favor of the Officers on the §1983 conspiracy claim. Even assuming that there was sufficient evidence that a conspiracy existed, as Mr. Ghee claims, *see* Appellant's Br. At 27-29, Mr. Ghee was neither seized nor arrested by the Officers. Because Mr. Ghee was not deprived of a Fourth Amendment right, the conspiracy claim fails.

IV

We lastly address the district court's Rule 12(b)(6) dismissal of the claims against Greyhound and Flix. Our review is *de novo*, and the question for us is whether the allegation in the complaint made the claims plausible. *See Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

In his amended complaint, Mr. Ghee appeared to assert negligence, breach of contract, breach of the duty of a common carrier, intentional infliction of emotional distress, and assault claims against Greyhound and Flix. The district court dismissed these claims on the defendants' motion. First, the district court ruled that Mr. Ghee had not pled any facts to pierce the corporate veil against Flix for the actions of Greyhound or Greyhound's employees. See D.E. 46 at 7-8. Second, the district court concluded that, as to Greyhound, (a) Mr. Ghee had not pointed to any contract terms that had been breached; (b) even if Greyhound had breached its duty as a common carrier to discharge Mr. Ghee in a

reasonable safe place, Mr. Ghee only alleged economic injury; (c) Mr. Ghee had not alleged that Ms. Keenan (the bus driver) threatened him or attempted to injure him so as to plausibly allege assault; and (d) there were no facts plausibly alleging that the emotional distress was severe. *See id.* at 10-15.

On appeal. Mr. Ghee appears to challenge only the dismissal of his tort claim against Greyhound for breaching its duty as a common carrier. His only arguments are that under Georgia law a common carrier is bound to exercise extraordinary diligence to prevent insult, injury, or harm to a passenger it is transporting, and that a common carrier is liable for an assault committed by its employee. *See* Appellant's Br. At 31-33.
We discuss each argument below.

A

Mr. Ghee cites to O.C.G.A. §46-9-132, which provides that "[a] carrier of passengers must exercise extraordinary diligence to protect the lives and persons of his passengers but is not liable for injuries to them after having used such diligence." This statute, however, does not prevent a common carrier like Greyhound from removing a disorderly passenger from a bus.

Generally speaking, a "common carrier of passengers has the right often the duty to enforce order and decency upon its conveyances or premises by ejecting those who are disorderly, obscene, or dangerous in their conduct." Am. Jur. 2d Carriers §1033 (May 2025 update). Under Georgia law, a common carrier may remove or discharge an unruly passenger, but "where the carrier, through its employe[e]s, acting within the scope of their authority, wrongfully effects a passenger, the carrier is liable for the tort thus committed, irrespective

of the good faith of its employe[e]s and the exercise on their part of ordinary prudence in determining whether or not the passenger has been guilty of misconduct. A mistake of fact on their part will not relieve the carrier from liability, even though they may have acted in entire good faith." *Seaboard Air-Line Ry v. O'Quin*, 52 S.E. 427, 429 (Ga. 1905) (citations omitted). "In expelling a passenger from its train, the carrier acts at its peril; and, if he be wrongfully ejected, the fact that its servants acted under a misapprehension in supposing that he had been guilty of misconduct can afford no excuse to the carrier for his unlawful expulsion." *Id.* *See also Daigrepont v. Teche Greyhound Lines*, 7 S.E. 2d 174, 176 (Ga. 1946) ("Should a carrier, in violation of the duty so imposed upon it, illegally expel a passenger from its bus and wrongfully refuse to carry him to his destination, it would be liable to the passenger for damages proximately resulting therefrom.").

Under Georgia law, then a passenger seems to have a cause of action against a common carrier which wrongfully removes him and does not allow him to complete the journey for which he paid. The problem for Mr. Ghee, as the district court explained, is that in his tort claim for breach of the duty of a common carrier, he alleged only an economic injury caused by Greyhound (through Ms. Keenan) taking him off the bus and not letting him finish his trip to Atlanta. In Georgia, the "' economic loss rule' generally provides that a contracting party who suffers purely economic losses must seek his remedy in contract and not in tort. Under the economic loss rule, a plaintiff can recover in tort only those economic losses resulting from injury to his person or damage to his property[.]" *Gen. Elec. Co. v. Lowe's Home Ctrs., Inc.*, 608 S.E. 2d 636, 637-38 (Ga. 2005) (citations

omitted). Mr. Ghee did not allege any injuries to his person or to his property form the allegedly wrongful removal from the bus. As a result, the district court correctly dismissed his tort claim against Greyhound for Ms. Keenan's actions.

In Georgia, the tort of assault requires the intent to commit a physical injury upon a person coupled with the apparent ability to do so. See O.C.G.A. §51-1-14; *Wallace v. Stringer*, 553 S.E.2d 166, 169 (Ga. App. 2001). Here the amended complaint contained no factual allegations which plausibly alleged that Ms. Keenan threatened Mr. Ghee with physical injury. The district court therefore correctly dismissed the assault claim.

V

We affirm the district court's orders and judgment.

AFFIRMED.