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APPENDIX A

**In the United States Court of Appeals
For the Eleventh Circuit**

No. 25-12309

STEPHEN LYNCH MURRAY,
Plaintiff-Appellant,

versus

**PHIL ARCHER, a natural person, CHRIS
SPROWLS, a natural person, OKEECHOBEE
COUNTY SHERIFF'S OFFICE, an entity,
GOVERNOR OF THE STATE OF FLORIDA, a
natural person, PINELLAS COUNTY SHERIFF'S
OFFICE, an entity, *Defendants-Appellees.***

**Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:21-cv-14355-JEM**

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

2a

Appendix A

Before NEWSOM, GRANT, and BRASHER, 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 40. The Petition for Panel Rehearing
also is DENIED. FRAP 40.

APPENDIX B

NOT FOR PUBLICATION

**In the United States Court of Appeals
For the Eleventh Circuit**

No. 25-12309

STEPHEN LYNCH MURRAY,
Plaintiff-Appellant,

versus

PHIL ARCHER, a natural person, CHRIS
SPROWLS, a natural person, OKEECHOBEE
COUNTY SHERIFF'S OFFICE, an entity,
GOVERNOR OF THE STATE OF FLORIDA, a
natural person, PINELLAS COUNTY SHERIFF'S
OFFICE, an entity, *Defendants-Appellees.*

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Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:21-cv-14355-JEM

Before BRASHER, ABUDU, and ANDERSON,
Circuit Judges.

PER CURIAM:

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Stephen Murray, proceeding pro se, appeals the district court's denial of his motion for leave to amend and motion to vacate. The district court held that Murray's motions were an improper attempt to revive several claims that it had previously dismissed. Murray argues that the district court misrepresented his allegations, disregarded his testimony, and failed to provide notice of his opportunity to request leave to amend. We **AFFIRM**.

I.

This appeal is the second Murray has brought concerning an alleged conspiracy by Florida officials and two sheriff's offices to deprive him of his First Amendment rights. After Murray filed his complaint, the district court dismissed it for being an improper shotgun pleading. The district court advised Murray to file an amended complaint within twenty days, or it would dismiss his case with prejudice. Murray declined to do so and appealed instead. We affirmed the district court's dismissal, holding that Murray's complaint was a shotgun pleading. See *Murray v. Archer*, No. 22-13155, 2023 WL 6381523 (11th Cir. Oct. 2, 2023).

Two years after the deadline to amend had passed, Murray moved for leave to file an amended complaint. He argued that he was not given adequate notice of the deadline to amend and that

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his complaint had never been dismissed with prejudice. Murray also filed a motion to vacate under Federal Rule of Civil Procedure 60(d)(3), arguing that newly discovered documents provided evidence that the defendants had perpetrated a “fraud on the Court.” Doc. 90 at 2.

The magistrate recommended denying Murray’s motions because each was “an improper attempt to resuscitate his case after Judge Martinez dismissed his complaint and the Eleventh Circuit affirmed on appeal.” Doc. 94 at 3. First, the magistrate concluded that Murray’s motion for leave to amend, coming two years after the deadline, was untimely and without good cause. Second, the magistrate concluded that Murray’s motion to vacate “largely rehashes his original complaint” and failed to prove that the defendants had perpetrated a fraud on the court. *Id.* at 6. The district court adopted the magistrate’s recommendations in full, denied Murray’s motions, and closed his case.

Murray appealed. While this appeal was pending, he also filed a motion to compel discovery.

II.

We review the denial of a motion to amend a complaint for abuse of discretion. *Fla. Evergreen Foliage v. E.I. DuPont De Nemours & Co.*, 470 F.3d 1036, 1040 (11th Cir. 2006). We review the denial of a Rule 60(d)(3) motion for abuse of discretion. *See Cox Nuclear*

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Pharmacy, Inc. v. CTI, Inc., 478 F.3d 1303, 1314 (11th Cir. 2007). We will find an abuse of discretion only if the district court applies the wrong legal standard, follows improper procedures, bases its decision on clearly erroneous findings of fact, or applies the law in an unreasonable or incorrect manner. *Loc. 703, I.B. of T. Grocery & Food Emps. Welfare Fund v. Regions Fin. Corp.*, 762 F.3d 1248, 1253 (11th Cir. 2014).

III.

Murray makes three main arguments in support of his motion to amend and motion to vacate. First, he argues that the district court made a series of factual errors in dismissing his claims. Second, he asserts that he was not given “clear notice” that the district court was dismissing his claims with prejudice. Third, he argues that there is new evidence that Florida officials concealed documents from the court, resulting in a fraud on the court. In response, the Florida officials and sheriff’s offices argue that the district court properly denied Murray’s motions to amend and to vacate. They also request that we impose a prescreening requirement on Murray’s future filings.

The district court did not abuse its discretion in denying Murray’s motion to amend. His motion largely recapitulated the complaint and objected to its dismissal, but a party has no right to revive

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dismissed counts through a motion to amend. Under the law of the case doctrine, courts may not revisit issues that were decided explicitly or by implication in a prior appeal. *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1289, 1291 (11th Cir. 2005). We have already

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held that the district court properly dismissed Murray's complaint. *Murray*, 2023 WL 6381523, at *3. Therefore, the district court rightly did not permit Murray to relitigate that decision.

Murray's contention that he lacked notice of the dismissal with prejudice is meritless. When the district court dismissed Murray's complaint, it clearly cautioned him that "failure to file an amended complaint within 20 days of this Order may result in dismissal of Plaintiff's case with prejudice without further notice." Doc. 73. We recognized that, when Murray appealed prior to that deadline, he had "declined the opportunity to amend." *Murray*, 2023 WL 6381523, at *3. Once again, this explicit holding is binding as law of the case. *Schiavo*, 403 F.3d at 1291.

Murray's decision to appeal has consequences. Because Murray chose to appeal before the expiration of time allowed for amendment, he waived the right to later amend his complaint. *Schuurman*

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v. Motor Vessel Betty K V, 798 F.2d 442, 445 (11th Cir. 1986). Although courts have discretion to grant amendments, Murray's motion to amend came two years after the deadline. *See S. Grouts & Mortars, Inc. v. 3M Co.*, 575 F.3d 1235, 1241 (11th Cir. 2009) (lack of diligence forecloses granting a motion for leave to amend). Considering his decision to appeal and lack of diligence in moving to amend, the district court did not abuse its discretion in denying Murray's motion to amend his complaint.

The district court also did not abuse its discretion in denying Murray's motion to vacate. To set aside a judgment for fraud on the court, a movant must establish fraud by clear and convincing

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evidence. *Mills v. Comm'r, Alabama Dep't of Corr.*, 102 F.4th 1235, 1239-40 (11th Cir.), *cert. denied sub nom. Mills v. Hamm*, 144 S. Ct. 2600, 219 L. Ed. 2d 1251 (2024). This demanding standard requires the movant prove that the alleged fraud is "highly probable." *Id.* at 1240. Murray's motion does not clear this bar. Murray contends that pertinent documents were not revealed to the court, but non-disclosure of allegedly pertinent facts ordinarily does not rise to the level of fraud on the court. *See Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir.1978).¹ As the magistrate judge correctly found, the motion was "full of conclusory and unsupported

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averments, as well as attachments that seemingly have no connection to his allegations." Doc. 94 at 6. Murray has not proven the existence of fraud by clear and convincing evidence.

Because we affirm the district court's denial of Murray's motions to amend and vacate, and thus its decision to close his case, we also deny his motion to compel discovery as moot.

Finally, there remains the question of the prescreening requirement. "We do not here design the kind of injunction that would be appropriate in this case. Considerable discretion necessarily is reposed in the district court." *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986). Should Murray file again in the future,

¹ All decisions of the Fifth Circuit handed down prior to the close of business on September 30, 1981, are binding precedent in this Circuit. *Bonner v. City of Pritchard, Ala.*, 661 F.2d 1206, 1207 (11th Cir. 1981).

the defendants are free to request the district court impose pre-screening requirements in the first instance.

IV.

AFFIRMED.

APPENDIX C

[DO NOT PUBLISH]
In the United States Court of Appeals
For the Eleventh Circuit

No. 22-13155
Non-Argument Calendar

STEPHEN LYNCH MURRAY, Plaintiff-Appellant,
versus

PHIL ARCHER, a natural person, CHRIS
SPROWLS, a natural person, OKEECHOBEE
COUNTY SHERIFF'S OFFICE, an entity,
GOVERNOR, STATE OF FLORIDA, PINELLAS
COUNTY SHERIFF'S OFFICE, an entity

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Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:21-cv-14355-JEM

Before NEWSOM, GRANT, and BRASHER, Circuit
Judges.

PER CURIAM:

Stephen Lynch Murray, proceeding pro se, appeals
the district court's order dismissing his complaint as

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an impermissible “shotgun” pleading. The district court permitted Murray to remedy the complaint’s deficiencies in an amended complaint, but Murray filed this appeal instead. After careful review, we affirm.

I.

Murray filed a pro se complaint against several Florida state officials and two Sheriff’s Offices. The complaint spans 74 pages, including 180 numbered paragraphs and 11 exhibits. It did not cite any law or allege any separate claims against defendants. All defendants moved to dismiss. A magistrate judge recommended the court dismiss the complaint as a shotgun pleading, and the district court adopted the recommendation in full.

The complaint begins by telling the story of Murray’s acquaintance, who was convicted for the murder of a strip club

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manager in 2016. Murray alleges that State Attorney Phil Archer and his employees committed perjury and tampered with evidence to secure the conviction. Murray then sent “thousands of emails” about the case and other general grievances to Archer, every Republican candidate for public office listed on Florida’s Department of State website, and a handful of congresspeople in D.C. He created the website cops2prison.org, a YouTube channel, and other social

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media accounts to “make a permanent home for these policy observations and arguments.” In early January, while viewing Florida Speaker Chris Sprowls’s Twitter feed, he found Speaker Sprowls’ wife’s account and a picture of Sprowls’s wife with former President Donald Trump on Air Force One. Murray, who “thought it was vain,” tweeted the picture of Sprowls’ wife with Bible verses about vanity. Murray admits he then emailed the picture of Speaker Sprowls’s wife to State Attorney Archer with the message: “omg, is pimping legal in Florida? Because I am going to make this bitch my whore.” Later that month, Murray drove to Pinellas County—the county where Speaker Sprowls and his wife live—as he alleges, to pass out flyers at Stetson University College of Law “to educate law students” and “drive traffic to his website.” A warrant was issued for Murray’s arrest based on his threat about Speaker Sprowls’s wife, a list of other threatening emails and Twitter posts, and his travel to the Sprowls’s county of residence. Murray was then arrested for cyberstalking, which he alleges was a wrongful arrest in retaliation for his online activity.

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Seven months later, Murray submitted a complaint to the Florida Inspector General that State Attorney Archer and Speaker Sprowls were sending sheriffs to harass him. The next day, Murray alleges officers confronted him at a gas station as ordered by

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Governor Ron DeSantis. A week later, Murray was stopped for speeding and subjected to a sobriety test. Murray believes both stops occurred in retaliation for his exercise of free speech in emails, his website, and various social media platforms. The complaint seeks \$2 million for the deprivation of his right “to have unabridged speech and publish and address grievances” and for his loss of productivity and peace of mind.

II.

We review the dismissal of a shotgun pleading for failure to comply with Federal Rules of Civil Procedure 8(a)(2) and 10(b) for abuse of discretion. See *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1320 (11th Cir. 2015). Although we construe pro se complaints liberally, we nevertheless require that pro se litigants adhere to the same governing rules and procedures as litigants represented by attorneys. See *Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007).

The Federal Rules of Civil Procedure require “a short and plain statement of the claim showing that the pleader is entitled to relief,” Fed. R. Civ. P. 8(a)(2), and that such claims are “in numbered paragraphs, each limited as far as practicable to a single set of circumstances,” Fed. R. Civ. P. 10(b). A shotgun pleading

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violates either Federal Rule of Civil Procedure 8(a)(2) or Rule 10(b), or both.” *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021).

We have identified four categories of shotgun pleadings: (1) “a complaint containing 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 action”; (3) a complaint that fails to “separate into a different count each cause of action or claim for relief”; and (4) 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.” *Weiland*, 792 F.3d at 1321–23. The unifying trait among the categories is that each complaint fails “to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Id.* At 1323.

Murray’s complaint commits at least three of the fatal pitfalls of shotgun pleadings.

First, Murray’s complaint is “replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action,” because it was written in sprawling, narrative form in which his political musings and opinions were intermingled

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with accusations against the defendants, making it difficult to follow. Weiland, 792 F.3d at 1321–23. For example, five pages of

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the complaint tell the story of Murray's acquaintance convicted of murder under the heading "Pimping in Florida." Second, Murray did not separate each cause of action into separate counts. In fact, Murray did not cite any law or allege any separate claims against defendants. Instead, the complaint is broken into the headings including the following:

"Grievances on Checks And Balances, Compound Jurisdiction, Anarchy, And The Bill Of Rights"; "Cops2Prison.Org"; "Culture, Morals, Equality of Men, And The First Amendment."

Third, any claims that Murray made against the defendants were intermingled with each other and scattered throughout his factual narrative. As the magistrate judge explained, "The allegations are sometimes connected to a particular Defendant or set of Defendants but sometimes not, making it virtually impossible to understand who did what and when."

There is no question Murray's complaint is a shotgun pleading. The district court did not abuse its discretion by dismissing it in violation of Rules 8 and 10.

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When a complaint fails as a shotgun pleading, we generally require that the district court allow the litigant at least one chance to remedy its deficiencies. See *Wagner v. First Horizon Pharm. Corp.*, 464 F.3d 1273, 1280 (11th Cir. 2006). The district court did just that: it advised Murray to file an amended complaint within twenty days, cautioning him that “even though he is a pro se litigant, he must follow the Local Rules and Federal Rules of Civil Procedure.”

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Murray declined the opportunity, allowing the twenty days to lapse and filing this appeal instead.

We AFFIRM

APPENDIX D

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION
Case Number:21-14355-CIV-MARTINEZ-MAYNARD
STEPHEN LYNCH MURRAY,
Plaintiff,
vs.
PHIL ARCHER, CHRIS SPROWLS,
OKEECHOBEE COUNTY SHERIFF'S
OFFICE, RON DESANTIS, PINELLAS
COUNTY SHERIFF'S OFFICE
Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

THIS MATTER was referred to the Honorable Shaniek K. Maynard, United States Magistrate Judge, for a ruling on all pre-trial, non-dispositive matters, and for a report and recommendation on all dispositive matters. (ECF No. 56). Judge Maynard issued a Report and Recommendation, (ECF No. 67), on the Motions to Dismiss filed by Pinellas County Sheriff's Office, (ECF No. 9); Governor Ron DeSantis, (ECF No. 13); Phil Archer, (ECF No. 20); Okeechobee County Sheriff's Office, (ECF No. 26); and Speaker Chris Sprowls' Notice of Joinder to each Defendants' Motions to Dismiss, (ECF No. 40), (collectively, "Motions to Dismiss").

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The R&R recommended as follows:

1. Governor Ron DeSantis' Motion to Dismiss, (ECF No. 13), be GRANTED and that all claims against Governor Ron DeSantis in his official capacity for monetary damages be DISMISSED WITH PREJUDICE;
2. Speaker Chris Sprowls' Motion to Dismiss, (ECF No. 40), be GRANTED and that any claims against Speaker Chris Sprowls in his official capacity for monetary damages be DISMISSED WITH PREJUDICE;
3. Pinellas County Sheriff's Office's Motion to Dismiss, (ECF No. 9), and Okeechobee County Sheriff's Office's Motion to Dismiss, (ECF No. 26), be GRANTED and that these Defendants be DISMISSED WITHOUT PREJUDICE to Plaintiff naming the appropriate party;
4. Any claims in the Complaint alleging First or Fourth Amendment violations by the Defendants based upon the arrest, detention, search, or seizure of Plaintiff or his electronic devices in January 2021 be DISMISSED WITH PREJUDICE;
5. That Plaintiff be cautioned that failure to file an amended complaint within 20 days of the Court's order on the R&R may result in dismissal of Plaintiff's case with prejudice without further notice;

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6. All pending motions be DENIED AS MOOT. Plaintiff filed Objections to the R&R, (ECF No. 68). He then filed a Motion for Permission to File Objections Exceeding 20 pages in Length to the Magistrate Judge's Report and Recommendation or to Withdraw Complaint Prior to Dismissal ("Motion on R&R") (ECF No. 72). Plaintiff's Motion on R&R seeks to file 77 pages of objections to the R&R, (ECF No. 72-1), in addition to 81 pages of Objections already filed, (ECF No. 68). In the alternative, Plaintiff moves to "withdraw his Complaint before dismissal for the purpose to replace it with multiple complaints[.]" (ECF No. 72 par 6).

The Court, having conducted a de novo review of the record and the issues presented in Plaintiff's Objections to the R&R, (ECF No. 63), agrees with and adopts the R&R. The Court overrules Plaintiff's Objections to the R&R, (ECF No. 63). Defendants do not object to the R&R, (ECF Nos. 69, 70, 71). Therefore, after careful consideration, it is hereby ADJUDGED that

1. United States Magistrate Judge Maynard's Report and Recommendation, (ECF No. 67), is AFFIRMED and ADOPTED.

2. Plaintiff's Motion on R&R, (ECF No. 72), is DENIED. The Court will not permit Plaintiff to file another set of objections, let alone 81-pages worth. To the extent Plaintiff wishes to replead his claims,

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he may do so pursuant to the R&R. But Plaintiff cannot escape dismissal with prejudice of his futile claims by withdrawing his Complaint now. Relatedly, Plaintiff is cautioned that even though he is a pro se litigant, he must follow the Local Rules and Federal Rules of Civil Procedure. The Court advises Plaintiff that it will strike any further filings that violate the Local Rules or Federal Rules of Civil Procedure.

It is therefore ADJUDGED that

3. Governor Ron DeSantis' Motion to Dismiss, (ECF No. 13), is GRANTED and all claims against Governor Ron DeSantis in his official capacity for monetary damages are DISMISSED WITH PREJUDICE;

4, Speaker Chris Sprowls' Motion to Dismiss, (ECF No. 40), is GRANTED and any claims against Speaker Chris Sprowls in his official capacity for monetary damages are DISMISSED WITH PREJUDICE;

5. Pinellas County Sheriff's Office's Motion to Dismiss, (ECF No. 9), and Okeechobee County Sheriffs Office's Motion to Dismiss, (ECF No. 26), are GRANTED and that these Defendants are DISMISSED WITHOUT PREJUDICE to Plaintiff naming the appropriate party;

Appendix D

6. Any claims in the Complaint alleging First or Fourth Amendment violations by the Defendants based upon the arrest, detention, search, or seizure of Plaintiff or his electronic devices in January 2021 are DISMISSED WITH PREJUDICE;

7. Plaintiff is cautioned that failure to file an amended complaint within 20 days of this Order may result in dismissal of Plaintiffs case with prejudice without further notice;

8. All pending motions are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 31 day of August, 2022.

/s/Jose E. Martinez
JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge Maynard
All Counsel of Record