No. _____

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 Issac Sanchez, Personal Capacity
Respondent

On Petition for a Writ of Certiorari to the United States

Court of Appeals for the 11th Circuit

PETITION FOR A WRIT OF CERTIORARI

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original

Questions

1. Why both lower courts say a fourth amendment seizure require an arrest when *Hodari D., 499 U. S., at 624,* states that it doesn't require detention "***A seizure doesn't have to necessarily result in actual control or detention. It is true that, when speaking of property, "[f]rom the time of the founding to the present, the word 'seizure' has meant a 'taking possession.'"***?

2. If officers acknowledges no criminal activity and no reasonable suspicious or probable cause to act at all assuming the incident under a domestic duty but used their authority to take possession of Petitioner's freedom of move from reboarding the bus breaching Georgia's *Motor contract carrier* laws a private contract and agreeing with the bus driver that Petitioner should be refused service, will it also be a "meeting of the minds" clearly acting other than their duties on false statements of a bus driver conspiring under color of state law beyond clearly establish law where there was no reason to act at all?

3. When allegations are made to clear up ownership of a dissolved separate entities should supporting proof be produce shown in the business records of the secretary of State Georgia registry?

OPINIONS BELOW

The first district court judgement/order, 10/05/23, grants Flex's motion to dismiss on the grounds that Flex and Greyhound were separate entities presenting no supporting proof on the record when in the business secretary of State Georgia registry proves that Greyhound was a dissolved corporation. The Judgement/order,01/12/2024, causing a false appeal to the 11th circuit.

The 11th Circuit issued its panel decision on August 20, 2025, the second appeal. The district court of the United States District Court for the Middle District of Georgia Columbus Division issued its memorandum Opinion on July 25, 2024.

JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

Title §42 U.S.C. 1983, **'meeting of the minds' and thus reached an understanding that petitioner should be refused service."** Conspiracies Between Public Officials and Private Persons, *Adickes v. S. H. Kress & Co., Id. at 158, 90 S. Ct. at 1609.* The governing principles for a Title 42 USC, Section §1983 Conspiracy with a private party Claim.

Fourth amendment seizure that breached a private contract as this court states a seizure can take the form of "physical force" or a show of authority that "in some way **restrains the liberty of the person**. *Terry v. Ohio, 392 U. S. 1, 19, n. 16 (1968).* ***A seizure doesn't have to necessarily result in actual control or detention. It is true that, when speaking of property, "[f]rom the time of the founding to the present, the word 'seizure' has meant a 'taking possession.'"*** *Hodari D., 499 U. S., at 624* (quoting 2 Webster 67). *Hodari D., 499 U. S., at 624.*

INTRODUCTION

They create narratives in orders/judgements for this case instead of addressing and refuting the cause of actions listed in the original complaint and evidence filed.

STATEMENT OF THE CASE

Two police officers used their authority to seize Petitioner's freedom of movement voiding Georgia's *Motor contract carrier* laws that left him stranded hundreds of miles away from designation. They had no reasonable suspicious or any probable cause to do so. They used their gun and badge as authority and breached Georgia common carrier's law. The bodycam footage, the 911 call made, the incident report are unrefuted evidence. all showing the events and the false inconsistence statements made by the, the bus driver, who accused Petitioner of talking loudly. Although Petitioner is not a talker, the contract carrier's bus driver accused Petitioner by making three false statements on police reports. Petitioner was only responding to another woman/witness who sat next to him having a conversation trying to talk at the level of a louder engine of the carrier's fifty-year-old bus. The police officers were asked to take statements from that woman/witness and they refused, see bodycam evidence. Petitioner was also lucky enough to get interrogatories, see evidence. Statements made by the officer stating that they treat every incident as domestic. Petitioner raised the issue about why the incident was treated domestic and how it conflicts with Georgia contract carrier's law, a contract carrier's is a contracting party not a domestic incident. The judgment/order refuse to refute the issue just made up a narrative of the whole case. Petitioner's complaint is that he had a right to equal protection of a full investigation of the incident instead the lower courts and respondents never directly refute the issue.

REASONS FOR GRANTING THE PETITION

The reason for granting the petition is because both lower court's judgements/orders have so far departed from the accepted and usual course of judicial proceedings in this case. The outcome of this case is made up narratives from a falsified judicial coup. This case should be investigated and remanded back to the lower court to be properly addressed and refuted.

1. Motion to dismiss Flex and Greyhound made on the grounds of being separate entities an allegation made by respondent any allegation should have supporting proof of current business registry to refute proof on the record that Greyhound was a dissolved corporation in the business secretary of State of Georgia registry meaning that Flex as owner remains the business corporation.
2. Both lower court's rulings states there have to be an arrest for a seizure to occur. They all gloss over your US Supreme Court rulings in Petitioner's brief under argument, Seizure by Acquisition of Control, cited never refuted;

> A seizure of a person, which can take the form of "physical force" or a show of authority that "in some way restrains the liberty of the person. *Terry v. Ohio, 392 U. S. 1, 19, n. 16 (1968).* ***A seizure doesn't have to necessarily result in actual control or detention. It is true that, when speaking of property, "[f]rom the time of the founding to the present, the word 'seizure' has meant a 'taking possession.'"*** *Hodari D., 499 U. S., at 624* (quoting 2 Webster 67). *Hodari D., 499 U. S., at 624.*

3. The district court order, (see app. Order Page 6). In the first paragraph this ruling never did mention the fact nor refuted that Petitioner was under Georgia's *Motor contract carrier* laws. Motor contract carrier is well established in Georgia as a contract under Article 1, SECTION 10. Clause 1. **On page 7 of this order, by the District Court, it claim that if Petition were free to go it was not a seizer** but never explained the fact about the officers used their authority took possession causing them to become involve. The overall conclusion of the whole entire order claim that an

arrest or detention has to take place before a seizure occurs which is false. This order never did address the officer thinking that they were answering a domestic dispute.

4. The 11th circuit opinion on page 7 of (see app.) the court bases their ruling on Peery v. City of Miami, 977 F. 3d 1061, 1071 (11th Circuit 2020), also stating that Petitioner was free to go after the encounter but never give their opinion on if there was a contract obligation the same argument stipulated in the original complaint and appeal brief. They also never gave an opinion on the use of the officer's authority when having no reasonable suspicious or any probable cause to act at all.

> A common carrier of passengers is bound to exercise extraordinary diligence to prevent insult, injury, or harm to a passenger transported by it. *Hames v. Old S. Lines, 52 Ga. App. 420, 183 S.E. 503 (1935).* If plaintiff suffered insult and was embarrassed and mortified by reason of any negligent acts of the defendant common carrier or its servants or their failure to perform their legal duty towards the person as a passenger, then the passenger would be entitled to recover. *Hames v. Old S. Lines, 52 Ga. App. 420, 183 S.E. 503 (1935).*

5. In Article 1, SECTION 10. Clause 1, the Contract Clause provides that no state may pass a "Law impairing the Obligation of Contracts the same here no official can impair that obligation of a contract either already clearly established law. The officer was untrained in this matter thinking they are dealing with a domestic dispute. In the bodycam footage, Petitioner clearly asked the officer to take statements from the passenger next to him they refused. The second clue that this incident being a false report is that none of the other passengers gave any statements pending Petitioner to any disturbance on the bus. The question is since the officers had no reasonable suspicious or any probable cause to act, why did they use their authority to hinder Petitioner freedom of movement by blocking him from reboarding the bus hundreds of miles away from his designation? Once Petitioner was free from the officer's

encounter now the situation should have resulted back to Georgia's *Motor contract carrier* laws, O.C.G.A. § 46-9-1, an obligation to get Petitioner to his designation.

The 11 circuit also ruled that there has to be an injury to bring a section 42 USC 1983 claim but the elements prove differently:

> The Supreme Court summarized the statutory elements of a § 1983 cause of action: "A plaintiff must prove (1) a person (2) acting under color of state law (3) subjected the plaintiff or caused the plaintiff to be subjected (4) to the deprivation of a right secured by the Constitution or laws of the United States."

There is no required injury shown here listed in these elements because there's always some type of injury when conflicting with the State.

CONCLUSION

Stealing/plundering self-litigants and Pro Se's claims making up narratives are not part of judicial duties it's the work of thieves.

Executed this 10th day of November, 2025

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APPENDIX
SUPPORTING
PETITION FOR A WRIT OF CERTIORARI

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Table of Content

1. An unclear order that caused a misleading appeal dismissing Flix and Greyhound that showed no proof alleged in their motion. The only thing Petitioner did was to try to file a timely appeal the clerks should have stop it.

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

SAMUEL GHEE,	*	
Plaintiff,	*	
vs.	*	
FLIX NORTH AMERICA, INC. parent company of GREYHOUND LINES, INC., GEORGE MOORE, personal capacity, and ISSAC SANCHEZ, personal capacity,	*	CASE NO. 4:23-cv-070 (CDL)
Defendants.	*	

O R D E R

Upset over being kicked off a Greyhound bus, Plaintiff Samuel Ghee filed this action against Greyhound Lines, Inc., its parent company Flix North America, Inc., and two police officers, George Moore and Issac Sanchez. For the reasons set forth below, the Court grants the motions to dismiss filed by Flix and Greyhound (ECF Nos. 15 & 21); denies Ghee's motion to strike (ECF No. 31); and grants in part and denies in part Ghee's motion to recover the costs of service of process (ECF Nos. 36 & 39). Flix's motion to strike (ECF No. 30) is terminated as moot.

FACTUAL ALLEGATIONS

Ghee alleges the following facts in support of his claims. The Court must accept these allegations as true for purposes of the pending motions. This action arises from Ghee's Greyhound bus trip on December 26, 2022. Ghee alleges that during the bus ride

from Selma, Alabama to Atlanta, Georgia, the bus driver made an unnecessary 911 call to the Columbus police, reporting that Ghee was rude; speaking to her in a loud and disrespectful manner; and that he could have a weapon. Compl. Ex. B, A Copy of the Sound Recording of the 911 Call, ECF No. 1 (incorporated into Am. Compl., ECF No. 11) (on file with the Court). Ghee claims that he was targeted by the driver because his voice annoyed her, leading to "a strong deep feeling of animosity over" his voice. Am. Compl. 4. He asserts that he was only speaking loudly enough to carry on a conversation with the passenger seated with him over the sound of a loud engine and that he was not speaking louder than other passengers on the bus. *Id.*

Around 1:30 PM, the bus arrived at a stop in Columbus next to a gas station. *Id.* at 6. Ghee claims that the bus stop had no cover, was "in peril[]" and was an "unsafe place . . . where all type of criminal activities [were] taking place." *Id.* at 6-7. Columbus police officers Moore and Sanchez arrived in response to the driver's 911 call and did not allow Ghee back on the bus. *Id.* at 4-5. Ghee asserts that he asked the officers to interview the other passenger he had been speaking with on the bus, but the police declined to do so and "just went along with the emotional statements the bus driver made." *Id.* He asserts that the bus driver fabricated the information in her 911 call and the police

conspired with her by taking her side in the dispute to keep him off the bus. *Id.* at 5, 9.

Ghee learned that to complete his trip to Atlanta with Greyhound he would need to purchase another ticket for the next bus, which would arrive in Columbus at 5:00 AM the following day. *Id.* at 6. Instead, he hired another transit service, which caused him to pay double what he would have paid if he could have reboarded the original Greyhound bus to Atlanta from Columbus. *Id.* at 7.

DISCUSSION

I. Motions To Dismiss

Ghee asserts three causes of action: (1) a claim under 42 U.S.C. § 1983 against Moore and Sanchez for violation of Ghee's Fourth Amendment rights, (2) a claim under 42 U.S.C. § 1983 against Moore, Sanchez, and Greyhound for conspiracy to interfere with Ghee's Fourth Amendment rights, and (3) a breach of contract claim against Flix and Greyhound. In addition to these enumerated causes of action, Greyhound also construes Ghee's complaint as asserting a negligence claim against Flix and Greyhound based on breach of their common carrier duties. Flix and Greyhound filed motions to dismiss, and this Order addresses their motions in turn.

A. Motion to Dismiss Standard

"To survive a motion to dismiss" under Federal Rule of Civil Procedure 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is

plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The complaint must include sufficient factual allegations "to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. In other words, the factual allegations must "raise a reasonable expectation that discovery will reveal evidence of" the plaintiff's claims. *Id.* at 556. But "Rule 12(b)(6) does not permit dismissal of a well-pleaded complaint simply because 'it strikes a savvy judge that actual proof of those facts is improbable.'" *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1295 (11th Cir. 2007) (quoting *Twombly*, 550 U.S. at 556).

Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (per curiam). "Nevertheless, [the Court] cannot act as de facto counsel or rewrite an otherwise deficient pleading to sustain an action." *Bilal v. Geo Care, LLC*, 981 F.3d 903, 911 (11th Cir. 2020).

B. Flix's Motion to Dismiss

Flix filed a motion to dismiss Ghee's complaint for failure to state a claim. Flix argues that Ghee did not plead sufficient facts to support a claim that Flix should be liable for the actions of its subsidiary, Greyhound. "It is a general principle of

corporate law . . . that a parent corporation (so-called because of control through ownership of another corporation's stock) is not liable for the acts of its subsidiaries" ordinarily, however "there is an equally fundamental principle of corporate law . . . that the corporate veil may be pierced and" a parent organization may be "held liable for the corporation's conduct when, *inter alia*, the corporate form would otherwise be misused to accomplish certain wrongful purposes, most notably fraud, on the shareholder's behalf." *United States v. Bestfoods*, 524 U.S. 51, 61-62 (1998).

Parent companies can sometimes also be held liable for the actions of their subsidiaries under "single employer" or "joint employer" liability theories, which hinge on whether the parent company exercises a certain level of control over the decisions of the subsidiary. *Llampallas v. Mini-Circuits, Lab, Inc.*, 163 F.3d 1236, 1244-45 (11th Cir. 1998). Finally, Georgia law has recognized that even when there is insufficient evidence to pierce the corporate veil, if this evidence is sufficient to "establish an agency relationship between the corporate parties," a parent corporation may be held liable for "the acts or omissions of a wholly-owned subsidiary corporation." *Kissun v. Humana, Inc.*, 479 S.E.2d 751, 752-53 (Ga. 1997); *see also Borg-Warner Acceptance Corp. v. Davis*, 804 F.2d 1580, 1582-83 (11th Cir. 1986) (per curiam) (explaining that to establish liability based on agency theory under Georgia law, "[i]t is insufficient, as a matter of

law, to find that an agency relationship exists when the evidence shows . . . that an agency was assumed" rather than showing that the principal's acts, reasonably interpreted, could lead one to believe an agency relationship existed).

Here, Ghee's only references to Flix in the complaint are to identify it as the parent company of Greyhound and to summarily allege that it owed him a duty of care as a motor carrier. Am. Compl.¶ 21. It therefore appears that Ghee is claiming that Flix should be liable for Greyhound's acts or omissions merely because it is Greyhound's parent organization. Ghee does not plead any facts showing that Flix sought to use the corporate form for wrongful purposes, exercised any unusual control over Greyhound's decisions, or undertook any actions or representations that would lead a reasonable observer to believe Greyhound was acting as Flix's agent. Accordingly, Ghee has not alleged any facts supporting a claim against Flix and so Flix's motion to dismiss (ECF No. 15) is granted.

C. Greyhound's Motion to Dismiss

Greyhound also filed a motion to dismiss for failure to state a claim. Greyhound argues that (1) Ghee's § 1983 claim against it must be dismissed because Greyhound did not act under color of state law, (2) the breach of contract fails because he did not point to any provision of a contract that Greyhound breached, and (3) the negligence claim fails because Ghee did not allege that

Greyhound breached its duty to discharge passengers at a reasonably safe location. Greyhound also contends that to the extent Ghee asserts claims against it for intentional infliction of emotional distress and assault, those claims should be dismissed.

1. Section 1983 Claim

To state a plausible § 1983 claim, a plaintiff must allege facts that if proven show that the plaintiff suffered a violation of a right guaranteed by the laws or Constitution of the United States, and that this violation was committed by a person acting under color of state law. *Harvey v. Harvey*, 949 F.2d 1127, 1130 (11th Cir. 1992). Here, Greyhound is a private party. "The Eleventh Circuit recognizes three tests for establishing state action by what is otherwise a private person or entity: the public function test, the state compulsion test, and the nexus/joint action test." *Id.* It is rare for a private party to be considered a state actor. *Id.* No allegations have been made suggesting that Greyhound was performing a public function for section 1983 purposes, nor have any facts been alleged to suggest state compulsion. By process of elimination, that leaves the nexus/joint action theory.

Under this theory, a plaintiff may show that a private party engaged in state action by showing that the private party conspired with a public entity by reaching an understanding in advance to violate the plaintiff's rights. *Id.* at 1133; *see also Smith v.*

Brookshire Bros., Inc., 519 F.2d 93, 94 (5th Cir. 1975) (per curiam) (finding a conspiracy sufficient to impute § 1983 liability on a private store when evidence showed it had a preconceived plan with the police wherein it could call the police and identify a person and the police would detain that person without an investigation).[1]

Here, Ghee has not alleged a conspiracy sufficient to make Greyhound a state actor. Ghee bases his § 1983 claims on his belief that the bus driver, by calling and lying to the police, conspired with them to prevent him from reaching his destination. Ghee does not allege that the bus driver pre-planned any action with the state, and he does not allege that she participated in the police's investigation of the 911 call aside from making the call itself and providing her account of events. This situation is unlike the one in *Smith* where there was a plan, set out in advance, for the police to act on behalf of the private party without any independent investigation. Accordingly, Ghee did not allege sufficient facts to establish that Greyhound is a state actor, so Greyhound's motion to dismiss Ghee's § 1983 claim against it is granted.

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[1] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

2. Breach of Contract Claim

Greyhound argues that Ghee did not plead facts sufficient to support a claim for breach of contract against Greyhound. To prove breach of contract under Georgia law, "a plaintiff must show (1) breach, (2) the resultant damages that he suffered, and (3) that he 'has the right to complain about the contract being broken.'" *Est. of Bass v. Regions Bank, Inc.*, 947 F.3d 1352, 1358 (11th Cir. 2020) (quoting *Kuritzky v. Emory Univ.*, 669 S.E.2d 179, 181 (Ga. Ct. App. 2008)). A plaintiff fails to plead sufficient facts to state a claim for breach of contract when that plaintiff "has not alleged any general or specific provision of any contract that [the defendant] might have breached." *Id.* "[G]eneral assert[ions]" of a breach of contract are not enough to go beyond a formulaic recitation of the elements. *Id.* at 1358-59.

Ghee's complaint references a "carrier's contract" that was "breached" when the bus driver reported Ghee to the police and Ghee was barred from reentering the bus, which resulted in Ghee being "stranded." Am. Compl. ¶¶ 12, 15. Ghee did not, though, identify or present any actual terms of the contract that Greyhound allegedly breached. It is possible that Ghee could allege specific terms of the contract, but such allegations are not in the operative complaint, so the motion to dismiss is granted as to this claim.

3. Breach of Common Motor Carrier Duty

Greyhound construes Ghee's complaint as asserting a negligence claim based on Greyhound's alleged breach of its duty to protect passengers from harm. *See* Am. Compl. ¶ 18 (citing O.C.G.A. § 46-9-132, which requires a common carrier to "exercise extraordinary diligence to protect the lives and persons of his passengers"). Greyhound asserts that Ghee did not allege enough facts to state such a claim.

"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." O.C.G.A. § 46-9-132. This duty includes a "duty of the operator to exercise extraordinary care and diligence in selecting a safe place to discharge his passengers." *Columbus Transp. Co. v. Curry*, 122 S.E.2d 584, 587 (Ga. Ct. App. 1961) (per curiam). This aspect of the duty is satisfied when the operator "does in fact discharge them at a reasonably safe place." *Id.*

Here, it is not disputed that Greyhound was a carrier of passengers within the meaning of Georgia law. Ghee alleges that he was owed a duty by the defendants as motor carriers. Am. Compl. ¶¶ 5, 21. He alleges that Greyhound's bus driver intentionally breached this duty by using false pretenses to "abandon[] him from his arrival designation" and place him somewhere he felt was unsafe. *Id.* ¶ 5.

Even assuming that Greyhound breached its duty to discharge passengers in a reasonably safe place by leaving Ghee in a dangerous area, he did not allege that he suffered any physical or mental injury caused by this conduct. The only harm he alleges relating to this conduct is economic harm caused by his having to obtain alternative transportation. The Court finds that the duty imposed by O.C.G.A. § 46-9-132 is not designed to protect against such economic harm unrelated to injury to a person's life or body. *See Bricks v. Metro Ambulance Serv., Inc.*, 338 S.E.2d 438, 441-42 (Ga. Ct. App. 1985) (explaining that Georgia law maintains a distinction between liability for loss of goods which is governed by O.C.G.A. § 46-9-1 and for injury to passengers which is governed by O.C.G.A. § 46-9-132); *Laidlaw Transit Servs., Inc. v. Young*, 683 S.E.2d 872, 874 (Ga. Ct. App. 2009) ("*Bricks* concerned the alleged theft of a diamond ring, *not an injury sustained by a passenger*, and it was this distinction that caused the Court to apply a standard of liability closer to O.C.G.A. § 46-9-1 *rather than* O.C.G.A. § 46-9-132." (emphasis added)). Greyhound's alleged failure to deliver Ghee to the destination on his bus ticket sounds more in contract than tort. Having failed to allege that he was attacked, injured, or hurt in any way after being denied reentry onto the bus, Ghee has not stated a plausible claim under § 46-9-132. Accordingly, this claim must be dismissed.

4. Ghee's Other "Claims"

Ghee does not clearly assert any other separate causes of action in his Complaint. He does make allegations, however, that the driver committed "intentional infliction of emotional distress," Am. Compl. ¶ 22, and he uses the phrase "Liability for assault by servant not dependent upon scope of employment," *id.* ¶ 17. Greyhound construes these allegations as asserting claims for intentional infliction of emotional distress and assault. To the extent they are being asserted, it seeks to have them dismissed.

To avoid dismissal of a claim for intentional infliction of emotional distress ("IIED"), a plaintiff must allege plausible facts supporting the reasonable conclusion that "(1) the conduct giving rise to the claim was intentional or reckless; (2) the conduct was extreme and outrageous; (3) the conduct caused emotional distress; and (4) the emotional distress was severe." *Mayorga v. Benton*, 875 S.E.2d 908, 913 (Ga. Ct. App. 2022) (quoting *Racette v. Bank of Am., N.A.*, 733 S.E.2d 457, 465 (Ga. Ct. App 2012)).

To be extreme and outrageous, "[t]he defendant's conduct must be so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *Id.* (quoting *Racette*, 733 S.E.2d at 465). Assuming, without deciding, that leaving a bus passenger many miles from his destination based on false pretenses, meets

the IIED extreme and outrageous standard, Ghee's claim nevertheless fails because he did not allege facts from which a reasonable jury could conclude that his emotional distress was severe. Ghee only states that this alleged IIED "intensified a military disability." Am. Compl. ¶ 26. This vague conclusory allegation does not satisfy the plausibility requirement at the pleading stage. Greyhound's motion to dismiss is granted as to this claim.

While it is unclear, Ghee appears to claim that Greyhound should be liable for an assault committed by its bus driver under a respondeat superior theory. *See id.* ¶ 17. Under Georgia law, "an assault occurs when all the apparent circumstances, reasonably viewed, are such as to lead a person reasonably to apprehend a violent injury from the unlawful act of another." *Bullock v. Jeon*, 487 S.E.2d 692, 696 (Ga. Ct. App. 1997) (internal quotation marks omitted) (quoting *Hallford v. Kelley*, 360 S.E.2d 644, 646 (Ga. Ct. App. 1987)). A defendant swearing at a plaintiff without "threaten[ing] or attempt[ing]" to violently injure the plaintiff would not lead a reasonable person to apprehend violent injury and so is not assault. *Id.*

Here, the only facts pled by Ghee relating to the elements of assault are that, once he was denied re-entry to the bus, he was left "in peril[]" in an "unsafe place . . . where all type of criminal activities [were] taking place." Am. Compl. 6-7. But he

did not plead that the bus driver threatened or attempted to injure him. Dropping one off in an area that one believes to be unsafe is not equivalent to attempting to strike or threatening to injure someone. As such, Ghee did not plead facts from which a reasonable jury could conclude that a reasonable person under similar circumstances would apprehend violent injury due to the bus driver's acts. To the extent that Ghee intended to assert an assault claim, Greyhound's motion to dismiss that claim is granted.

II. Ghee's Motion to Strike Documents

Ghee claims that Defendants did not properly serve him with any filings in this action except ECF No. 13. Ghee filed a "motion to strike" every document that Defendants filed but did not properly serve on him. The Court denies the motion to strike (ECF No. 31) because he did not establish a basis for striking any pleadings. *See* Fed. R. Civ. P. 12(f) ("The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.").

The Court does recognize that Ghee contends that Defendants did not properly serve him with some filings in this action. Where, as here, a pro se litigant declines to participate in electronic filing, he may be served by mail. *See* Fed. R. Civ. P. 5(b)(2)(C) (stating that a paper is served by "mailing it to the person's last known address—in which event service is complete upon mailing"). Based on the Court's review, counsel for

Defendants Moore and Sanchez filed certificates of service stating that counsel sent the filings to Ghee via U.S. mail, postage prepaid, addressed to the P.O. Box that is listed as Ghee's address in the Court's filing system. *See, e.g.*, Certificate of Service, ECF No. 17 at 9; Certificate of Service, ECF No. 44 at 6. The Court is thus satisfied that Defendants Moore and Sanchez properly served Ghee with any papers.

It is less clear that some of the papers filed by Flix and Greyhound were properly served on Ghee when they were initially filed. The certificates of service for certain filings made by Flix and Greyhound state that the papers were "forwarded to all counsel of record" but do not explicitly state that the papers were mailed to Ghee. *E.g.*, Certificate of Service, ECF No. 21 at 3. But, in response to the motion to strike, counsel for Flix and Greyhound pointed to evidence that they emailed and mailed copies of certain papers to Ghee after he complained to counsel that he had not received them. Accordingly, it appears to the Court that any deficiency in service has been cured, so this issue is now moot.

III. Flix's Motion to Strike Ghee's Response to Flix's Answer

Flix also filed a motion to strike (ECF No. 30). After Flix filed its Answer, Ghee filed a "reply" to the Answer (ECF No. 28). Federal Rule of Civil Procedure 7(a)(7) permits a reply to an answer "if the court orders one." The Court did not order a reply,

so it is not a type of pleading permitted under Federal Rule of Civil Procedure 7. It is also not a motion or a response or reply to a motion. Thus, the "reply" is not properly before the Court, and the Court declines to consider it. The motion to strike (ECF No. 30) is terminated as moot.

IV. Ghee's Motion to Recover the Costs of Service of Process

Ghee asserts that he properly requested a waiver of service from each Defendant under Federal Rule of Civil Procedure 4(d). He contends that Defendants failed, without good cause, to sign and return the waiver and should thus be ordered to pay the expenses Ghee incurred in making service under Rule 4(d)(2). For a waiver request to be proper, a plaintiff must send a written request via first-class mail or other reliable means to the individual defendant or, in the case of a corporation, to "an officer, a managing or general agent, or any other agent" authorized to receive service of process. Fed. R. Civ. P. 4(d)(1)(A), (G). The waiver must contain the name of the court where the complaint was filed and be accompanied by a copy of the complaint plus two copies of a waiver form, and a prepaid means for returning the form. Fed. R. Civ. P. 4(d)(1)(B)-(C). And, the waiver request must inform the defendant of the consequences of waiving and not waiving service, state the date the request was sent, and give the defendant a reasonable time to return the waiver. Fed. R. Civ. P. 4(d)(1)(D)-(F).

Here, Ghee represents that he sent waiver requests to Defendants. He did not submit a copy of the waiver requests with his present motion, although Defendants point out that he submitted a copy of the waiver request when he filed a motion for service by the U.S. Marshal. *See* Mot. for Service Ex. 4, Waiver Request, ECF No. 5-6 at 2-4. That document states that the waiver request is to "Flix North America Inc." and "Columbus Police Department." *Id.* at 1, ECF No. 5-6 at 2. In connection with the present motion, Ghee did submit a copy of certified mail receipts showing that he sent packages to "Columbus Police Dept." and "Flix North America Inc." on April 27, 2023. Pl.'s Mot. to Recover Costs of Service of Process Ex. 1, Certified Mail Receipts, ECF No. 36-2. This evidence does not show that Ghee sent the waiver requests to each individual defendant as required by Rule 4(d)(1)(A)(i). Accordingly, Ghee did not establish that he properly requested a waiver of service from Moore or Sanchez. Nor did he establish that he properly requested a waiver of service from Greyhound Lines, Inc.; Ghee did not point to any evidence that he sent a waiver request to an officer or agent of that company. For these reasons, the Court denies Ghee's Rule 4(d)(2) motion for expenses against Moore, Sanchez, and Greyhound.

Flix does not appear to dispute that Ghee sent it a waiver request that substantially met the requirements of Rule 4(d)(1). Flix argues, though, that it is not a proper party to this action

and that it should be excused from responding to the waiver request. Flix did not point to any authority suggesting that this type of argument constitutes good cause for a refusal to waive service. *Cf.* Fed. R. Civ. P. 4(d)(2) advisory committee's note to 1993 amendment ("It is not a good cause for failure to waive service that the claim is unjust or that the court lacks jurisdiction.").

Flix's other argument is that it had good cause to refuse Ghee's waiver request because the request to Flix did not include two of the exhibits. In his Complaint, Ghee relied on several exhibits, including a police officer's body camera footage and an audio recording of the bus driver's 911 call. Ghee asserts that he included these digital exhibits on a flash drive that he enclosed with his waiver request. Flix contends that it did not receive a flash drive and that it obtained a copy of the exhibits from the Clerk of Court. Neither side pointed to any evidence on this issue.[2] Even if Ghee did not demonstrate that he sent the exhibits to Flix with his waiver request, it is clear that he did file those exhibits with the Court. The Clerk noted that although the video and audio files could not be uploaded to the Court's electronic filing system, they were uploaded to the Court's digital

[2] Ghee submitted an unsworn "affidavit" and declared under penalty of perjury that its contents were true and correct. Amended Mot. to Collect Costs of Service of Process Ex. 2, Affidavit 1, ECF No. 39-2. The affidavit does not contain any statement about a flash drive.

evidence vault and were thus available to the parties upon request. Clerk's Docket Entry (May 1, 2023), ECF No. 2. Flix did not point the Court to any authority that a waiver request is improper simply because it does not include two digital exhibits that are referenced and described in the complaint—particularly if those exhibits were promptly filed with the Court and the Clerk made a public docket entry stating that the exhibits are stored in the Court's digital evidence vault. For these reasons, the Court finds that Flix did not establish good cause for its refusal to waive service.

Ghee contends that he is entitled to recover the $95.00 he spent to hire a process server to serve Flix, plus $250.00 in "litigation fees and others." Pl.'s Mem. in Supp. of Rule 4(d) Mot. 3, ECF No. 36-1. But the only evidence Ghee submitted of his expenses incurred to make service on Flix is (1) the invoice to Atlanta Legal Services, Inc. for $95.00, Pl.'s Mot. to Recover Costs of Service of Process Ex. 3, Invoice (June 22, 2023), ECF No. 36-4 at 3; (2) the envelope reflecting that he spent $6.66 to mail his initial Rule 4(d) motion, Pl.'s Mot. to Recover Costs of Service of Process Ex. 4, Envelope, ECF No. 36-5; and (3) the envelope reflecting that he spent $5.94 to mail his reply brief in support of his motion. Reply in Supp. of Pl.'s Mot. to Recover Costs of Service of Process Ex. 3, Envelope, ECF No. 45-3. The Court thus orders Flix North America, Inc. to pay Samuel Ghee

$107.60 as the reasonable expenses Ghee incurred to make service on Flix and pursue the motion to collect the service expenses.

CONCLUSION

For the foregoing reasons, (1) Flix's motion to dismiss (ECF No. 15) is granted; (2) Greyhound's motion to dismiss (ECF No. 21) is granted; (3) Ghee's motion to strike (ECF No. 31) is denied; (4) Flix's motion to strike (ECF No. 30) is terminated as moot; and (5) Ghee's motion to recover the costs of service of process (ECF Nos. 36 & 39) is denied as to Greyhound, Moore, and Sanchez but is granted as to Flix to the extent set forth above.

IT IS SO ORDERED, this 5th day of October, 2023.

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

2. 11th Circuit opinion on a misleading order.

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13655

SAMUEL GHEE, IV,

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

JUDGMENT

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: December 14, 2023

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

ISSUED AS MANDATE: January 12, 2024

[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 23-13655

Non-Argument Calendar

SAMUEL GHEE, IV,

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 LAGOA, Circuit Judges.

PER CURIAM:

Upon review of the record, we find that we lack jurisdiction over this appeal.

Samuel Ghee, IV appeals from the district court's October 5, 2023 order that granted Flix North America, Inc.'s and Greyhound Lines, Inc.'s motions to dismiss, denied Ghee's motion to strike, and denied in part Ghee's motion to recover the costs of service of process. That order is not final and appealable, however, because it did not end the litigation on the merits in the district court. *See* 28 U.S.C. § 1291; *Acheron Cap., Ltd. v. Mukamal*, 22 F.4th 979, 986 (11th Cir. 2022) (stating that a final order ends the litigation on the merits and leaves nothing for the court to do but execute its judgment).

Ghee's claims against defendants Moore and Sanchez remain pending before the district court, and the district court did not certify its order for immediate review under Federal Rule of Civil Procedure 54(b). *See Supreme Fuels Trading FZE v. Sargeant*, 689 F.3d 1244, 1246 (11th Cir. 2012) (noting that an order that disposes of fewer than all claims against all parties to an action is not immediately appealable absent certification pursuant to Rule

54(b)). Nor is the district court's October 5, 2023 order effectively unreviewable on appeal from a final order resolving the case on the merits. *See Plaintiff A v. Schair*, 744 F.3d 1247, 1252-53 (11th Cir. 2014) (explaining that a ruling that does not conclude the litigation may be appealed under the collateral order doctrine if it, *inter alia*, is "effectively unreviewable on appeal from a final judgment"); *Doe No. I v. United States*, 749 F.3d 999, 1004 (11th Cir. 2014) (noting that interlocutory discovery orders are generally not immediately appealable).

Accordingly, this appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.

3. District Court's Final Judgement

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

SAMUEL GHEE,	*	
Plaintiff,	*	
vs.	*	
GEORGE MOORE, personal capacity, and ISSAC SANCHEZ, personal capacity,	*	CASE NO. 4:23-cv-70 (CDL)
Defendants.	*	

O R D E R

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

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 the 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

[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.

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. *Id.* 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 stopped 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; 08:03-08:45, 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

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[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 or declaration that Ghee 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 called 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, ECF 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 (Moore 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.* at 16:05 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 § 1983 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 or 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 fact here that would authorize a reasonable jury to conclude that Defendants

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 in Ghee's shoes 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 constitutional 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 the defendant's summary judgment motion on the plaintiff's § 1983 conspiracy claim because the plaintiff "failed to establish an underlying violation of his constitutional rights").

CONCLUSION

For the foregoing reasons, Defendants' motion for summary judgment (ECF No. 62) is granted 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

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

SAMUEL GHEE, *

Plaintiff, *

v. * Case No. 4:23-cv-00070 (CDL)

FLIX NORTH AMERICA, INC., parent company of GREYHOUND LINES, INC., GEORGE MOORE, personal capacity, and ISSAC SANCHEZ, personal capacity, *

Defendants.

JUDGMENT

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

4. 11th Circuit opinion on the District Court's Final Judgement

[DO NOT PUBLISH]

In the United States Court of Appeals For the Eleventh Circuit

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No. 24-12580

Non-Argument Calendar

SAMUEL GHEE, IV,

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.

PER CURIAM:

Samuel Ghee, IV, 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's 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' briefs, we affirm.[1]

I

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

[1] Mr. Ghee has moved for default judgment on appeal on the ground that he never agreed to any extension for the appellees to 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. Greyhound'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 handcuffs, 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 judgment 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 granted 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. Const. amend. IV. 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." *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 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 or impeded; whether identification is retained; the suspect's age, education and intelligence; the length of the suspect's detention and questioning; the number of police officers present; the display of weapons; any physical touching of the suspect, and the language and tone of voice of the police.

United States v. Perez, 443 F.3d 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 Officers 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 an 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 judgment 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 allegations 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 reasonably 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 and 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 ejects 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 from 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.

B

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.