[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-10128
Non-Argument Calendar

D.C. Docket No. 3:19-cv-00032-TCB

MICHAEL WOMACK,

Plaintiff-Appellant,

versus

CARROLL COUNTY, GEORGIA,
GERALD PILGRIM,
CRAIG DODSON,
DAVID JORDAN,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(December 15, 2020)

Before JORDAN, NEWSOM, and ANDERSON, Circuit Judges.

PER CURIAM:

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Michael Womack appeals the district court's dismissal of his action brought pursuant to 42 U.S.C. § 1983. After careful review of the parties' briefs and the record, we affirm.

I

A

Mr. Womack was employed as a deputy by the Sheriff of Carroll County, Georgia. As part of a duty of his employment, he was given a cabin in which to reside based on an oral lease. At some point, Mr. Womack had an "affair with a separated wife of an officer whose father was a powerful figure in Carroll County politics." D.E. 22 at 2.

On April 22, 2017, Mr. Womack was arrested for DUI, and he was terminated from his position six days later. Mr. Womack later pleaded guilty to the DUI charge.

Mr. Womack alleges that he received no pre-termination hearing or notice of the charges against him. After termination, Mr. Womack claims that Gerald Pilgrim, the Operations Director for Carroll County, threatened him with "action" by the Sheriff's Department if he did not move out of the cabin.

B

Mr. Womack filed his second amended complaint in September of 2019 under 42 U.S.C. § 1983 against Carroll County, Mr. Pilgrim, Major Craig Dodson, and Major David Jordan. In that complaint, Mr. Womack alleged violations of his

Fourteenth Amendment right to due process, violations of his right to equal protection under the Georgia Constitution, and violations of state law.

The defendants filed motions to dismiss for failure to state a claim. The district court granted the defendants' motions. It concluded that Mr. Womack's federal claims were deficient and declined to exercise supplemental jurisdiction over the remaining state-law claims. Mr. Womack's appeal followed.

II

We review a district court's grant of a motion to dismiss under Rule 12(b)(6) *de novo*. *See Stone v. Wall*, 135 F.3d 1438, 1442 (11th Cir. 1998). To survive a Rule 12(b)(6) motion, a plaintiff must plead enough facts to state a claim for relief that is plausible on its face. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547 (2007). We accept all well-pleaded facts as true and construe them in the light most favorable to the plaintiff. *See Powell v. Thomas*, 643 F.3d 1300, 1302 (11th Cir. 2011). But we need not accept as true the plaintiff's legal conclusions, including those couched as factual allegations. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

III

On appeal, Mr. Womack challenges the district court's grant of the defendants' motions to dismiss. First, he argues that the district court erred in dismissing his procedural due process claim regarding his employment termination.

Specifically, he contests the district court's ruling that he did not have a constitutionally protected property interest in his continued employment. Second, he argues that the district court erred in dismissing his procedural due process claim regarding the termination of his lease. He contends that the district court erred in ruling that he did not have a constitutionally protected property interest in the continuation of his tenancy. Third, he argues that the district court erred in dismissing his claim under the equal protection clause of the Georgia Constitution after determining that his class-of-one claim was not cognizable. Finally, he argues that the district court abused its discretion by declining to exercise supplemental jurisdiction over his remaining state-law claims. We address each contention in turn.

A

Mr. Womack argues that he had a valid due process claim with respect to his termination from the Carroll County Sheriff's Office. To establish a procedural due process claim, a plaintiff must show that he had a property interest of which he was deprived. *See Ross v. Clayton Cnty., Ga.*, 173 F.3d 1305, 1307 (11th Cir. 1999). "State law determines whether a public employee has a property interest in his or her job. Under Georgia law, a public employee generally has no protected property interest unless he or she is employed under a civil service system, which allows termination only for cause." *Brett v. Jefferson Cty*, 123 F.3d 1429, 1433–1434 (11th Cir. 1997) (internal quotation marks omitted). *See also H&R Block E. Enters., Inc.*

v. Morris, 606 F.3d 1285, 1294 (11th Cir. 2010) ("In the absence of an agreement, Georgia follows an 'at-will' employment doctrine, which permits the employer to discharge the employee for any reason whatsoever . . .").

Mr. Womack was not employed under a civil service system. The Standard Operating Procedures of Carroll County Sheriff's Department stated that "[a]ll positions at the Carroll County Sheriff's Office are excluded from civil service coverage and are considered at will employees working at the discretion of the Sheriff." D.E. 5 at 18. Mr. Womack has not presented any evidence or authorities contradicting this language. Thus, he was an at-will employee and had no constitutionally protected property interest in his continued employment. Because he had no protected property interest, he failed to state a due process claim under § 1983 related to this termination.

B

Mr. Womack challenges the district court's ruling that he did not state a due process claim with respect to the termination of his lease. "It is well settled that a protected property interest arises where a government benefit may be withdrawn only for cause." *Jeffries v. Georgia Residential Fin. Auth.*, 678 F.2d 919, 925 (11th Cir. 1982). Under Georgia law, an oral contract for the creation of a tenancy creates a tenancy-at-will. *See City Council of Augusta v. Henry*, 88 S.E.2d 576, 577, 92 Ga. App. 408, 409 (1955). Notice for the termination of a tenancy-at-will is codified by

statute in Georgia and requires 60 days' notice from the landlord or 30 days' notice from the tenant. *See* Ga. Code Ann. § 44-7-7.

Mr. Womack concedes that he was an at-will tenant with an oral lease, but he alleges that Mr. Pilgrim and Carroll County did not provide him with the required statutory notice for termination of the lease under § 44-7-7. We have held, however, that the mere violation of a state statute outlining a required procedure does not necessarily equate to a due process violation. *See Harris v. Birmingham Bd. of Educ.*, 817 F.2d 1525, 1528 (11th Cir. 1987). Therefore, the failure of Mr. Pilgrim or Carroll County to follow Georgia's statutory procedure and give Mr. Womack 60 days' notice to terminate his tenancy does not amount to a due process violation. *See id.* We therefore affirm the district court's dismissal of the due process claim related to the lease.

C

Mr. Womack contends that the district court erred in dismissing his equal protection claim under Georgia's equal protection clause. The district court noted that it was unclear whether Mr. Womack was proceeding under state law or federal law, but concluded that the equal protection claim failed.

The Georgia Supreme Court has held that the Georgia equal protection clause is "coextensive with and substantially equivalent to the federal equal protection clause," and so the analysis for his state equal protection claim is the same whether

it arises under state or federal law. *See Democratic Party of Georgia, Inc. v. Perdue*, 707 S.E.2d 67, 74, 288 Ga. 720, 727–28 (2011). The federal equal protection clause "requires government entities to treat similarly situated people alike." *Campbell v. Rainbow City*, 434 F.3d 1306, 1313 (11th Cir. 2006). To state an equal protection claim under § 1983, a plaintiff must show that "(1) he is similarly situated to [others] who received more favorable treatment; and (2) the state engaged in invidious discrimination against him based on race, religion, national origin, or some other constitutionally protected basis." *Sweet v. Sec'y, Dep't of Corr.*, 467 F.3d 1311, 1318–19 (11th Cir. 2006).

Claims under the equal protection clause are not limited to cases of discrimination based on membership in a protected class. *See Campbell*, 434 F.3d at 1313. For example, under a class-of-one theory, a plaintiff may allege that he "has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." *Id.* at 1314. However, the class-of-one theory of equal protection "has no application in the public employment context." *Engquist v. Or. Dep't of Agric.*, 553 U.S. 591, 605 (2008) ("To treat employees differently is not to classify them in a way that raises equal protection concerns. Rather, it is simply to exercise the broad discretion that typically characterizes the employer-employee relationship.").

The district court properly dismissed Mr. Womack's claim that he was denied equal protection under the Georgia Constitution when he was fired for being charged with DUI. Contrary to his argument, the class-of-one theory is not available to Mr. Womack because his equal protection claim arises from his status as a public employee. *See Engquist*, 553 U.S. at 594.

D

We review a district court's decision to not exercise supplemental jurisdiction under 28 U.S.C. § 1367 for abuse of discretion. *See Parker v. Scrap Metal Processors, Inc.*, 468 F.3d 733, 738 (11th Cir. 2006). We find no such abuse here.

A district court has supplemental jurisdiction over all state law claims that arise from a common nucleus of operative facts with a federal claim. *See id.* at 743. When available, supplemental jurisdiction should be exercised unless a ground for refusing jurisdiction under § 1367(b) or (c) is applicable. *See id.* A court may decline to exercise supplemental jurisdiction once it has dismissed all claims over which it has original jurisdiction. *See* § 1367(c)(3).

The district court did not abuse its discretion by declining supplemental jurisdiction over Mr. Womack's remaining state-law claims. As stated above, the court correctly determined that Mr. Womack stated no cognizable § 1983 claims in his complaint, and that the equal protection claim failed under both federal and state law. Because it dismissed all claims over which it had original jurisdiction, it had

the authority to decline supplemental jurisdiction over Mr. Womack's remaining state law claims under § 1367(c)(3).

IV

The district court's order is affirmed.

AFFIRMED.