

United States Court of Appeals for the Fifth Circuit

No. 26-60007

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2026

Lyle W. Cayce
Clerk

EHIREMEN BENNARD ERIAKHA,

Plaintiff—Appellant,

versus

UNIVERSITY OF MISSISSIPPI; YI YANG, *Doctor, Chair, Department of Pharmacy Administration*; MARIE BARNARD, *Doctor, Graduate Program Coordinator, Pharmacy Administration*; ANNETTE KLUCK, *Doctor, Dean of the Graduate School*; YINAN HUANG, *Doctor, Faculty Member,*

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC Nos. 3:25-CV-226, 3:25-CV-250

Before JONES, SOUTHWICK, and WILLETT, *Circuit Judges*.

DON R. WILLETT, *Circuit Judge*:

Twin brothers Ehiremen Bennard Eriakha and Omokhodion Alfred Eriakha were doctoral students at the University of Mississippi. Their disagreements with faculty—over mentoring arrangements, program requirements, and academic sanctions—eventually produced two lawsuits raising a host of statutory, constitutional, and contractual claims. The district court consolidated the cases and dismissed Bennard’s claims. Both brothers

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appealed, but Alfred’s appeal was later dismissed for failure to prosecute. Only Bennard’s remains.

Here, Bennard contends that the University and several faculty members violated the First and Fourteenth Amendments and Mississippi contract law. But even liberally construed, his allegations do not plausibly transform these academic disputes into constitutional violations. Some claims are also barred by state sovereign immunity, and the district court properly declined supplemental jurisdiction over the remaining contract claims. We largely agree with the district court’s disposition, with one mild correction: sovereign-immunity dismissals must be without prejudice. With that modification, we AFFIRM.

I. BACKGROUND

Two complaints underlie this case. The district court consolidated them because the brothers’ allegations substantially overlap. Only Bennard’s claims are before us.

A. The Academic Disputes

Ehiremen Bennard Eriakha and his twin brother, Omokhodion Alfred Eriakha (the Brothers), are Black international students who pursued doctoral degrees at the University of Mississippi’s Department of Pharmacy Administration. Bennard initially studied under Doctor Yinan Huang. Their written mentorship agreement described the arrangement but did not prohibit the Department from assigning Bennard another mentor later. Bennard also acknowledges that his program required him to complete an “Abilities Transcript” documenting his progress.

About a year after Bennard agreed to Huang’s mentorship, Dr. Yi Yang—the Department Chair—informed Bennard that she would begin serving as his co-mentor to facilitate Huang’s other professional obligations.

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Each of the Department's tenured faculty members approved the revised mentorship arrangement. Drs. Huang and Yang invited Bennard to meet in person regarding his Abilities Transcript, but he requested that they meet virtually. Dissatisfied with the new mentorship structure, Bennard also sought an explanation for the change that allegedly "over[o]de [his] right to a safe, supportive, and non-coercive mentoring environment." On Bennard's telling, meeting in person "without clear justification or mutual agreement . . . compromis[ed] [his] psychological safety" and risked diminishing "the openness and quality of the mentoring exchange."

After Huang and Yang confirmed that the meeting would be in person, Bennard refused to attend. Six days later, Bennard reiterated his concerns about the co-mentorship structure and in-person meeting—this time, copying Drs. Marie Barnard (the Graduate Program Coordinator) and Annette Kluck (the Graduate School's Dean) on his email correspondence. In the same message, Bennard stated that he was "eager" to complete the Abilities Transcript, but would do so only if the University provided a "mentoring environment that is respectful, student-centered, and aligned with institutional expectations." Kluck replied that Bennard's new mentorship structure was entirely appropriate, and Barnard emphasized that the Abilities Transcript was mandatory.

Despite those warnings, Bennard declined to complete the Transcript. So Barnard extended Bennard's deadline and warned that his failure to complete the Abilities Transcript would result in a recommendation that he be downgraded to provisional-student status. Bennard responded with an eleven-page memorandum detailing his qualms. Huang explained to Bennard that she was soon departing the University and that Yang's co-mentorship would facilitate his development during the transitional period. Huang also reminded Bennard that he was required to complete the Abilities Transcript. Again, Bennard replied by challenging the

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“unilateral restructuring” of his mentorship agreement and declining an in-person meeting.

A few days later, Kluck gave Bennard yet another opportunity to complete the Abilities Transcript. She explained that “no policies . . . prohibit program faculty from making changes to mentoring assignments” or from requiring in-person meetings. Bennard again declined. Barnard then recommended provisional status, and Kluck accepted that recommendation. Provisional status made Bennard ineligible to work as a graduate assistant the next semester. To regain full standing, he needed to complete the Abilities Transcript, meet weekly with his thesis advisor, and successfully complete his coursework.

Alfred encountered separate academic difficulties. After failing his comprehensive exam, he unsuccessfully appealed his grade. Yang offered him a retake, but Alfred said he was “not in a suitable psychological state” to try again. Yang referred him to the University counseling center, postponed the retake by five months, and recommended that he seek faculty feedback. Alfred responded that he was “not in the best psychological state for individual interactions” and asked to receive any feedback in writing. He added that he was “unable to break the cycle of introspection and distress” without understanding his academic shortcomings.

The dispute continued. Yang explained that meeting with faculty was a necessary component of Alfred’s studies. Alfred then submitted a thirteen-page memorandum criticizing the format of the exam he had failed. He proposed that he help control the wording of each retake question, that the exam be “pilot tested,” and that an “external, neutral observer” attend. The Department later placed Alfred on academic probation after he disrupted

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another student's thesis presentation and, like Bennard, downgraded him to provisional-enrollment status for failing to complete his Abilities Transcript.¹

According to the Brothers, the Defendants imposed these sanctions because Alfred had complained about the Department's refusal to provide disability accommodations. They allege that the academic downgrades were retaliation for those complaints.

The brothers soon carried those disputes from the Department to federal court.

B. The Litigation

The Brothers, proceeding pro se, separately sued the University, Huang, Yang, Barnard, and Kluck.² Their two complaints asserted claims under the Rehabilitation Act, Americans with Disabilities Act, Title VI, and the First and Fourteenth Amendments, along with breach-of-contract claims.³

A few weeks after filing their complaints, each Brother moved for a preliminary injunction and temporary restraining order, requesting restoration of full academic standing during the litigation.⁴ The court denied their motions without prejudice, the Brothers renewed the motions, and the

¹ While this litigation was pending, Bennard and Alfred were further downgraded to non-degree-seeking status after failing to satisfy the conditions for reinstatement. *See Eriakha v. Univ. of Miss.*, No. 3:25-cv-226, 2026 WL 50146, at *2 (N.D. Miss. Jan. 7, 2026).

² *See Eriakha v. Univ. of Miss.*, No. 3:25-cv-226 (Alfred); *Eriakha v. Univ. of Miss.*, 3:25-cv-250 (Bennard). Alfred also sued Drs. Erin Holmes, Meagen Rosenthal, and Jennifer Simmons. *See Eriakha v. Univ. of Miss.*, No. 3:25-cv-250, 2025 WL 2690972, at *1 (N.D. Miss. Nov. 17, 2025). None of those defendants is involved in this appeal.

³ *See* 42 U.S.C. § 1983 (providing a cause of action for constitutional claims).

⁴ *See* FED. R. CIV. P. 65 (authorizing district courts to enter preliminary injunctions and temporary restraining orders).

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district court consolidated their cases.⁵ The Brothers appealed to our court for expedited relief.⁶ Because the Brothers had not shown that the district court “effectively denied” their requests for an injunction, we dismissed the appeal for lack of subject-matter jurisdiction.⁷

While the Brothers litigated their injunction requests, the Defendants moved to dismiss. The district court dismissed Bennard’s claims against the University on sovereign-immunity grounds and his remaining federal claims under Rule 12(b)(6); it declined to exercise supplemental jurisdiction over his surviving state-law contract claims.⁸

Although both Brothers appealed, we dismissed Alfred’s appeal for failure to prosecute. Bennard presses his constitutional and contractual claims and also argues that the district court improperly resolved factual disputes at the motion-to-dismiss stage, granted qualified immunity, dismissed his federal claims with prejudice without leave to amend, consolidated his case with Alfred’s, and denied his Rule 65 motions as moot. He further alleges that the loss of his graduate assistantship jeopardizes his F-1 status and ability to remain in the United States. He asks us to reverse,

⁵ *Eriakha v. Univ. of Miss.*, No. 3:25-cv-250, 2025 WL 3207812, at *1–3 (N.D. Miss. Nov. 17, 2025) (consolidating cases).

⁶ See 28 U.S.C. § 1292(a)(1) (“[T]he courts of appeals shall have jurisdiction of appeals from . . . [i]nterlocutory orders of the district courts . . . granting, continuing, modifying, refusing or dissolving injunctions[.]”); *Amazon.com Servs. LLC v. NLRB*, 151 F.4th 221, 227 (5th Cir. 2025) (holding that “a district court’s failure to timely rule” on a motion for injunctive relief “can amount to an ‘effective denial’” (quotation omitted)).

⁷ See *Eriakha v. Univ. of Miss.*, No. 25-60708, 2025 WL 3772150, at *1 (5th Cir. Dec. 31, 2025) (per curiam).

⁸ See *Eriakha v. Univ. of Miss.*, No. 3:25-cv-226, 2026 WL 50146, at *3–10 (N.D. Miss. Jan. 7, 2026); FED. R. CIV. P. 12(b)(1), (6) (authorizing dismissal for lack of subject-matter jurisdiction or failure to state a claim).

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reinstate his injunction requests, and remand to permit an amended complaint.

II. STANDARDS OF REVIEW

We review dismissals under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) *de novo*, applying the same standards that the district court employed.⁹

“When a Rule 12(b)(1) motion is filed in conjunction with other Rule 12 motions, the court should consider the Rule 12(b)(1) jurisdictional attack before addressing any attack on the merits.”¹⁰ This rule “prevents a court without jurisdiction from prematurely dismissing a case with prejudice.”¹¹ The plaintiff bears the burden of proving that jurisdiction exists.¹²

To survive Rule 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.’”¹³ A plaintiff’s claims “must contain either direct allegations on every material point necessary to sustain a recovery . . . or contain allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial.”¹⁴ Dismissal is appropriate “if the complaint lacks

⁹ *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

¹⁴ *Campbell v. City of San Antonio*, 43 F.3d 973, 975 (5th Cir. 1995) (internal quotation marks omitted).

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an allegation regarding a required element necessary to obtain relief.”¹⁵ We may consider “the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim[s] and referenced [in] the complaint.”¹⁶

We “liberally constru[e]” pro se complaints and hold them “to less stringent standards than formal pleadings drafted by lawyers.”¹⁷ Even so, “pro se plaintiffs must . . . plead factual allegations that raise the right to relief above the speculative level.”¹⁸

When dismissal of a pro se complaint is appropriate, “it should generally be done without prejudice to allow the plaintiff an opportunity to file an amended complaint.”¹⁹ But with-prejudice dismissal of a pro se complaint is acceptable “if the plaintiff has alleged his best case.”²⁰ “Because the district court is best situated to determine when plaintiffs have had sufficient opportunity to state their best case, we review the district court’s decision to grant a motion to dismiss with or without prejudice only for abuse of discretion.”²¹

¹⁵ *Allen v. Walmart Stores, L.L.C.*, 907 F.3d 170, 178 (5th Cir. 2018) (brackets omitted) (quoting *Rios v. City of Del Rio*, 444 F.3d 417, 421 (5th Cir. 2006)).

¹⁶ *See Lone Star Fund V (U.S.) v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010).

¹⁷ *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

¹⁸ *Coleman v. United States*, 912 F.3d 824, 828 (5th Cir. 2019) (quoting *Chhim v. Univ. of Tex. at Austin*, 836 F.3d 467, 469 (5th Cir. 2016)).

¹⁹ *Alderson v. Concordia Par. Corr. Facility*, 848 F.3d 415, 423 (5th Cir. 2017) (per curiam) (quoting *Rodriguez v. United States*, 66 F.3d 95, 97 (5th Cir. 1995)).

²⁰ *Bazrowx v. Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998) (per curiam).

²¹ *Club Retro, L.L.C. v. Hilton*, 568 F.3d 181, 215 n.34 (5th Cir. 2009).

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III. BENNARD HAS NOT SHOWN REVERSIBLE ERROR

With those standards in mind, we take Bennard's arguments in order, beginning with the threshold question of sovereign immunity.

A. Sovereign Immunity Bars Some Claims

Bennard's claims against the University, his official-capacity claims against Huang, and his state-law contract claims against the named Defendants in their official capacities are barred.

Under the Eleventh Amendment, states are immune from being sued in federal court by their own citizens or citizens of other states.²² That immunity extends to public universities, such as the University of Mississippi, since they are "arms of the state."²³ Because an official-capacity claim is "a suit against the official's office," it is "no different from a suit against the State itself."²⁴ And federal courts lack jurisdiction over suits against a state, state agency, or state official in his or her official capacity, "unless that state has waived sovereign immunity from suit or Congress has clearly abrogated it."²⁵ Here, no Defendant waived sovereign immunity.

But Bennard argues that an exception to sovereign immunity allows him to sue the Defendants in their official capacities. Under *Ex parte Young*,²⁶ "a litigant may sue a state official acting in his official capacity as long as the lawsuit seeks prospective relief to redress an ongoing violation of federal

²² See U.S. CONST. amend. XI; *Lapides v. Bd. of Regents of Univ. Sys. of Ga.*, 535 U.S. 613, 616 (2002).

²³ *Daniel v. Univ. of Tex. Sw. Med. Ctr.*, 960 F.3d 253, 257 (5th Cir. 2020).

²⁴ *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989).

²⁵ *NiGen Biotech, L.L.C. v. Paxton*, 804 F.3d 389, 394 (5th Cir. 2015) (quotation omitted).

²⁶ 209 U.S. 123 (1908).

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law.”²⁷ To invoke that exception, “a plaintiff must demonstrate that the state officer has ‘some connection’ with the enforcement of the disputed act.”²⁸

The district court correctly held that the *Young* exception to sovereign immunity permits Bennard’s federal official-capacity claims against Yang, Barnard, and Kluck because those Defendants are closely connected to the conduct Bennard challenges. Yang, Barnard, and Kluck had a hand in Bennard’s downgrade to provisional-student status, and he alleges that the sanction reflects an ongoing violation of his rights. But Huang neither initiated nor ratified Bennard’s change in status. Nor could she provide Bennard’s requested relief. Thus, sovereign immunity forecloses Bennard’s claims against the University and Huang in her official capacity.

Importantly, however, the *Young* exception to sovereign immunity does not apply to state-law claims against the state or state officials sued in their official capacities.²⁹ Recognizing that rule, Bennard concedes that “[t]he sovereign-immunity dismissal of the contract claim[s] against the University and the official-capacity defendants is correct” because those claims arise under Mississippi law. That concession is correct.³⁰

In sum, sovereign immunity precludes Bennard’s claims against the University, his official-capacity claims against Huang, and his state-law claims against the Defendants in their official capacities. Because those

²⁷ *Freedom From Religion Found. v. Abbott*, 955 F.3d 417, 424 (5th Cir. 2020).

²⁸ *K.P. v. LeBlanc*, 627 F.3d 115, 124 (5th Cir. 2010) (quoting *Young*, 209 U.S. at 157).

²⁹ *Corn v. Miss. Dep’t of Pub. Safety*, 954 F.3d 268, 275 (5th Cir. 2020).

³⁰ See, e.g., *Doe v. Univ. of Miss.*, 361 F. Supp. 3d 597, 604–05 (S.D. Miss. 2019) (applying sovereign immunity to § 1983 and contract claims against the University and its officials).

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dismissals are jurisdictional, however, they must be without prejudice.³¹ That leaves Bennard's federal official-capacity claims against Yang, Barnard, and Kluck; his personal-capacity constitutional claims against the faculty defendants; and his individual-capacity contract claims.

Sovereign immunity narrows the field. The surviving federal claims fare no better on the merits.

B. The Constitutional Claims Are Not Plausibly Alleged

Bennard fails to state a First or Fourteenth Amendment claim against Yang, Barnard, or Kluck in their official capacities.

1. The Retaliation Claim Lacks Causation

Bennard asserts that the Defendants retaliated against him because he challenged his change in mentorship structure and his brother complained about the Department's failure to accommodate his disability. Bennard argues that the court improperly discounted both his own objections to the revised mentorship arrangement and his theory that the Defendants retaliated against him because of his association with Alfred.

To prove First Amendment retaliation, a plaintiff must show that his "speech was constitutionally protected and that it was a 'substantial' or 'motivating' factor in the defendant's decision."³² If the plaintiff makes this showing, the burden shifts to the defendant to show that it would have made the same decision even in the absence of protected speech.³³

³¹ See *Warnock v. Pecos Cnty.*, 88 F.3d 341, 343 (5th Cir. 1996).

³² *Kelleher v. Flawn*, 761 F.2d 1079, 1083 (5th Cir. 1985) (quoting *Mt. Healthy City Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977)).

³³ *Id.*

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We need not decide whether Bennard's objections to the revised mentorship arrangement were constitutionally protected. Even assuming they were, his retaliation theory fails on causation. His own objections cannot explain the co-mentorship decision: Yang was assigned as co-mentor before Bennard objected to that arrangement. And to the extent Bennard challenges the later provisional-status decision, he must plausibly allege that protected activity was a "substantial" or "motivating" factor.³⁴

The same requirement governs Bennard's alternative theory involving Alfred. Bennard alleges that the Defendants punished him because Alfred complained about the Department's handling of disability accommodations. We may assume, without deciding, that Bennard's relationship with his twin brother is constitutionally protected and that retaliation for that association could support a First Amendment claim.³⁵ But Bennard still must plausibly allege that the protected association was a substantial or motivating factor in the challenged action.

He has not. Bennard points to no statement or fact connecting Alfred's complaints to the co-mentorship decision or the later downgrade. And the provisional-status record points the other way: Bennard was (1) repeatedly told the Abilities Transcript was mandatory, (2) given extra time to complete it, (3) warned that continued refusal would lead to provisional status, and (4) placed on provisional status only after he refused to comply. Chronology matters, but this chronology hurts Bennard rather than helps him.

³⁴ *Kelleher*, 761 F.2d at 1083 (quoting *Mt. Healthy City Bd. of Educ.*, 429 U.S. at 287).

³⁵ See *Kipps v. Caillier*, 205 F.3d 203, 206 (5th Cir. 2000).

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* * *

Because Bennard does not plausibly allege that protected activity caused either challenged academic decision, his retaliation claim fails. We therefore need not decide the constitutional status of his objections to the mentorship arrangement or his association with Alfred.

2. The Equal-Protection Claim Lacks Plausible Allegations of Discrimination

Next, Bennard claims that the Defendants violated the Fourteenth Amendment’s Equal Protection Clause by treating him—a Black student of African national origin—worse than similarly situated students outside his protected classes.³⁶ The district court dismissed the claim because Bennard failed to “allege that any non-Black or non-African student who refused to complete the Abilities Transcript was treated differently than himself.”³⁷ Bennard responds that “the court looked for the wrong comparison,” and should have focused on whether other doctoral students’ mentoring assignments were altered.

The Equal Protection Clause requires states to treat similarly situated persons alike.³⁸ A plaintiff “must show that two or more classifications of similarly situated persons were treated differently.”³⁹ But the ultimate question here is discriminatory purpose. Bennard must plead facts supporting a plausible inference that the challenged decisions evince

³⁶ See *Abdallah v. Mesa Air Grp.*, 83 F.4th 1006, 1014 (5th Cir. 2023) (recognizing national origin and race as protected classifications).

³⁷ See *Eriakha*, 2026 WL 50146, at *8.

³⁸ *Plyler v. Doe*, 457 U.S. 202, 216 (1982).

³⁹ *Gallegos-Hernandez v. United States*, 688 F.3d 190, 195 (5th Cir. 2012).

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“purposeful discrimination.”⁴⁰ Discriminatory purpose means that the decisionmaker selected a course of action at least partly to cause an adverse effect on an identifiable group.⁴¹

Bennard pleads no such facts. As the district court noted, he “points to no specific person in similar circumstances . . . who was treated differently.”⁴² Nor does he identify any discriminatory statement, policy, pattern, or other circumstance tying the challenged decisions to race or national origin. His cohort chart, moreover, was not referenced in, attached to, or central to the complaint and therefore is not properly considered at this stage.⁴³ Even if it were, the chart shows only that Bennard was the sole member of his cohort with two mentors; it identifies no student in materially similar circumstances who received more favorable treatment.

* * *

What’s missing is any fact linking Bennard’s race or national origin to the academic decisions he challenges. He points to no similarly situated student who was treated better, and to no statement, policy, pattern, or other circumstance suggesting discriminatory purpose. At most, he alleges different treatment. He does not allege plausible discrimination.⁴⁴

⁴⁰ *Edwards v. Johnson*, 209 F.3d 772, 780 (5th Cir. 2000).

⁴¹ *See id.* (citing *Lavernia v. Lynaugh*, 845 F.2d 493, 496 (5th Cir. 1988)).

⁴² *Eriakha*, 2026 WL 50146, at *8.

⁴³ *See Lone Star Fund*, 594 F.3d at 387 (“The court’s review is limited to the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint.”).

⁴⁴ *See, e.g., Rountree v. Dyson*, 892 F.3d 681, 685 (5th Cir. 2018) (affirming Rule 12(b)(6) dismissal of equal-protection claims where plaintiff’s “complaint generally alleges that other similarly situated individuals were treated differently, but . . . points to no specific person or persons and provides no specifics as to their violations”).

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That leaves due process. We can assume a protected interest and resolve the claim on a narrower ground: Bennard received all the process the Constitution requires.

3. The Due-Process Claim Falls Short Even Assuming a Protected Interest

Bennard claims that the Defendants violated his procedural and substantive due-process rights by placing him on provisional status and refusing to renew his research assistantship without adequate notice or review. Bennard asserts that the district court erred by analyzing his downgrade to provisional status and loss of employment jointly, instead of separately. We find no error.

We need not decide whether Bennard possessed a protected property or liberty interest in continued graduate study. The Supreme Court and this court have repeatedly assumed such an interest without deciding the question.⁴⁵ We do the same here. Even assuming Bennard had a protected interest, his due-process claim fails.

What process is due depends on the kind of university decision at issue. Disciplinary sanctions punish misconduct. Academic decisions judge whether a student has met the institution's academic standards. The latter receive "far less stringent procedural requirements" because courts are particularly ill-equipped to second-guess academic judgments. For an academic decision, due process requires that the student be informed of the

⁴⁵ See *Gilani v. UTSW Med. Ctr.*, No. 25-10451, slip op. at 5 (5th Cir. Jan. 30, 2026) (per curiam) (unpublished) (assuming without deciding a liberty or property interest in continuing medical education); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 84–85 (1978) (same).

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faculty's dissatisfaction and the danger it poses to continued enrollment, and that the ultimate decision be careful and deliberate.⁴⁶

Bennard's allegations describe just that. His provisional status followed his failure to complete the Abilities Transcript, a program requirement. Faculty told Bennard several times that the Transcript was required. They extended his deadline, warned him that continued refusal would lead to provisional status, considered his lengthy responses, and gave him a clear path back to full standing. That was enough.

His research-assistantship theory fares no better. Property interests in public employment arise from state law.⁴⁷ Bennard points to no statute, contract, rule, or other source giving him a right to renewal after his assistantship expired. And Mississippi law is clear that "non-tenured employees do not have a legitimate expectation of continued employment."⁴⁸ With no entitlement to renewal, there was no property interest for due process to protect.

Nor do the alleged immigration consequences change the analysis. Whatever effect the loss of the assistantship may have had on Bennard's F-1 status, it did not create a property interest in an academic status or University appointment that state law did not otherwise provide. Put simply,

⁴⁶ *Gilani*, No. 25-10451, slip op. at 5–6 (explaining that academic decisions receive "far less stringent procedural requirements" and require notice of faculty dissatisfaction and a "careful and deliberate" ultimate decision) (quoting *Horowitz*, 435 U.S. at 86, 90).

⁴⁷ *Bishop v. Wood*, 426 U.S. 341, 344 (1976).

⁴⁸ *Klingler v. Univ. of S. Miss., USM*, 612 F. App'x 222, 227 (5th Cir. 2015); *see also* MISS. CODE § 37-101-15(f) (providing that Mississippi's educational board "shall have the power and authority . . . to contract" with university employees and "terminate any such contract at any time for malfeasance, inefficiency, or contumacious conduct").

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aliens residing in the United States on a visa do not have a constitutionally protected property right to remain in the country.⁴⁹

Bennard’s substantive-due-process theory fares no better. Even assuming a protected interest, judicial review of a genuinely academic decision is narrow: the decision must represent “such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment.”⁵⁰ Nothing pleaded approaches that demanding standard. The Department tied Bennard’s provisional status to a program requirement, repeatedly explained what compliance required, and provided a defined path back to full standing.

* * *

For these reasons, Bennard has not plausibly alleged a constitutional violation, and his personal-capacity claims against the faculty defendants therefore fail on the merits.

⁴⁹ See *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950) (“[A]n alien who seeks admission to this country may not do so under any claim of right. . . . Such privilege is granted to an alien only upon such terms as the United States shall prescribe. It must be exercised in accordance with the procedure which the United States provides.”); *Azizi v. Thornburgh*, 908 F.2d 1130, 1134 (2d Cir. 1990) (“the [plaintiffs] cannot succeed on their due process challenge, because they do not have an inherent property right in an immigrant visa”); *Smirnov v. Clinton*, 806 F. Supp. 2d 1, 12 (D.D.C. 2011) (“Courts have determined that there is no property right in an immigrant visa.”).

⁵⁰ *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 225 (1985).

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C. Qualified Immunity Independently Bars the Personal-Capacity Claims

Qualified immunity supplies an independent ground for dismissal.⁵¹ Public-university officials sued in their individual capacities are protected from suit “unless their conduct violates a clearly established right.”⁵² When a defendant “pleads qualified immunity and shows he is a governmental official whose position involves the exercise of discretion,” the burden shifts to the plaintiff “to rebut this defense by establishing that the official’s allegedly wrongful conduct violated clearly established law.”⁵³

A right is clearly established only when the constitutional question is “beyond debate.”⁵⁴ A plaintiff may make that showing in one of three ways: controlling authority involving sufficiently similar circumstances, a robust consensus of persuasive authority, or the rare obvious case in which unlawfulness is apparent despite the absence of factually similar precedent.⁵⁵

Bennard identifies no such authority. The cases he cites state general constitutional principles in materially different settings. None of them involves anything close to what happened here: (1) changing a graduate student’s mentoring arrangement, (2) insisting that he complete a mandatory

⁵¹ See *Kentucky v. Graham*, 473 U.S. 159, 166–67 (1985) (holding that qualified immunity is an available defense for personal-capacity defendants but not official-capacity defendants); *Stallworth v. Slaughter*, 436 F. App’x 337, 340 (5th Cir. 2011) (similar).

⁵² *DePree v. Saunders*, 588 F.3d 282, 287 (5th Cir. 2009) (quoting *Mace v. City of Palestine*, 333 F.3d 621, 623 (5th Cir. 2003)).

⁵³ *Pierce v. Smith*, 117 F.3d 866, 871–72 (5th Cir. 1997) (quoting *Salas v. Carpenter*, 980 F.2d 299, 306 (5th Cir. 1992)).

⁵⁴ *Kisela v. Hughes*, 584 U.S. 100, 104 (2018) (quotation omitted).

⁵⁵ *Dilworth v. Tucker*, No. 25-60414, slip op. at 4–5 (5th Cir. July 1, 2026) (published) (identifying the three routes to clearly established law).

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progress assessment, and (3) imposing academic consequences when he refused. Nor is this a case in which unlawfulness would have been obvious even without closely analogous precedent. The faculty defendants are therefore independently entitled to qualified immunity.

Bennard's personal-capacity constitutional claims fail on the merits and, independently, on qualified-immunity grounds. And with every federal claim now out of the case, only Bennard's individual-capacity contract claims remain.

D. The District Court Properly Declined Supplemental Jurisdiction Over the Remaining Contract Claims

The district court acted within its discretion in declining supplemental jurisdiction over the remaining individual-capacity contract claims. Our "general rule is to dismiss state claims when the federal claims to which they are pendent are dismissed."⁵⁶ The district court followed that rule and dismissed the individual-capacity contract claims without prejudice. We see no abuse of discretion.

That disposes of the substantive claims. Two case-management objections remain.

E. Consolidation Was Proper, and the Rule 65 Motions Became Moot

Bennard claims that the court erred in consolidating his action with Alfred's and denying his injunction motions as moot upon dismissing the action. Neither claim supports reversal.

Bennard maintains that consolidation prejudiced him because it minimized "the emergency posture of his case," and "diminish[ed] the urgency and independence of the relief he had sought." He concedes that

⁵⁶ *Parker & Parsley Petroleum Co. v. Dresser Indus.*, 972 F.2d 580, 585 (5th Cir. 1992).

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“[c]onsolidation is not the principal basis on which reversal is sought,” but says it helps explain the district court’s asserted errors. He cites no law indicating that the court erred, and we find no error.

Under Federal Rule of Civil Procedure 42(a), district courts may consolidate actions that involve common questions of law or fact. Our court urges district judges “to make good use of Rule 42(a) in order to expedite trial and eliminate unnecessary repetition and confusion,” even when a party opposes consolidation.⁵⁷ As we have clarified, “[f]ederal district courts have very broad discretion in deciding whether or not to consolidate.”⁵⁸ We accordingly review decisions relating to case management for abuse of discretion.⁵⁹

The district court did not abuse its broad discretion in consolidating Bennard’s and Alfred’s cases. The actions were filed in the same court, arose from overlapping facts, asserted similar claims against many of the same defendants, and generated similar motions. Consolidation reduced duplication without changing the legal standards governing either brother’s claims.

Consolidation is one matter; preliminary relief is another. But the latter necessarily fell with the underlying claims. The court denied Bennard’s Rule 65 requests as moot only after dismissing the underlying action. Once

⁵⁷ See *In re Air Crash Disaster at Fla. Everglades on Dec. 29, 1972*, 549 F.2d 1006, 1013 (5th Cir. 1977) (citation modified) (quoting *Gentry v. Smith*, 487 F.2d 571, 581 (5th Cir. 1973)).

⁵⁸ *Frazier v. Garrison I.S.D.*, 980 F.2d 1514, 1532 (5th Cir. 1993).

⁵⁹ *Ctr. for Biological Diversity, Inc. v. BP Am. Prod. Co.*, 704 F.3d 413, 432 (5th Cir. 2013).

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no merits claim remained pending, those requests no longer presented a live controversy.⁶⁰

IV. THE JUDGMENT REQUIRES ONE JURISDICTIONAL CORRECTION

That leaves one loose end—not whether Bennard’s claims fail, but how some of them must be dismissed. The district court dismissed Bennard’s federal claims against the University and Huang in her official capacity, as well as his state-law official-capacity claims, with prejudice. But sovereign-immunity dismissals are jurisdictional and therefore must be without prejudice.⁶¹ We MODIFY the judgment accordingly.

The rest of the judgment stands. Bennard has not plausibly alleged a First or Fourteenth Amendment violation; the faculty defendants are independently entitled to qualified immunity; and the district court acted within its discretion in declining supplemental jurisdiction, consolidating the related cases, and dismissing the preliminary-relief motions as moot. Nor did it abuse its discretion by dismissing the remaining federal claims with prejudice: Bennard never sought leave to amend below and repeatedly defended his complaint as adequate.⁶²

* * *

Academic disputes may carry serious consequences. But serious consequences do not transform academic disputes into constitutional ones.

The judgment is AFFIRMED AS MODIFIED.

⁶⁰ See *Koppula v. Jaddou*, 72 F.4th 83, 84–85 (5th Cir. 2023).

⁶¹ See *John Gannon, Inc. v. Tex. Dep’t of Transp.*, 178 F.4th 906, 912 (5th Cir. 2026) (citation omitted).

⁶² *Jacquez v. Procunier*, 801 F.2d 789, 793 (5th Cir. 1986).