

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2025

Lyle W. Cayce
Clerk

No. 25-60185
Summary Calendar

IKECHUKWU HYGINIUS OKORIE,

Plaintiff—Appellant,

versus

UNIVERSITY MALL, L.L.C.; JOSEPH R. TULLOS; JAMES
PONCHO; ROBERT T. JACKSON, SR.; JACKSON, TULLOS, ROGERS
& MORGAN, P.L.L.C.,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:24-CV-63

Before DAVIS, WILSON, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Pro se Plaintiff-Appellant Ikechukwu Okorie alleges violations of federal law after a non-judicial foreclosure sale of commercial property. The district court granted Defendants-Appellees' Rule 12(b)(6) motion and

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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dismissed Okorie's claims with prejudice. For the reasons that follow, we AFFIRM.

Okorie, a medical doctor, formed Royal Oaks Rental Properties, LLC "to own and manage various real properties."¹ Among Royal Oaks's properties was 3700 Hardy Street in Hattiesburg, Mississippi, a commercial building that housed Okorie's medical practice.²

In 2018, Royal Oaks executed a \$1.2 million note to Citizens Bank, secured by a deed of trust on Hardy Street.³ The next year, Okorie transferred the property to himself before filing a Chapter 11 petition in bankruptcy court. That proceeding was converted to a Chapter 7 case in 2021.

After conversion, Citizens Bank filed a motion for relief from the bankruptcy stay and abandonment, which the court granted. Okorie and Citizens Bank then "entered into a reaffirmation agreement that restructured and combined the real property loan with an equipment loan guaranteed by Okorie."⁴ Okorie transferred Hardy Street back to Royal Oaks, which executed a new \$1.5 million promissory note to Citizens Bank, again secured by a deed of trust on Hardy Street.⁵ Payments on that loan lapsed, so Citizens

¹ *Univ. Mall, LLC v. Okorie*, No. 2:24-CV-91, 2024 WL 4862986, at *1 (S.D. Miss. Nov. 21, 2024), *aff'd*, No. 24-60605, 2025 WL 2159090 (5th Cir. July 30, 2025); *see also Cinel v. Connick*, 15 F.3d 1338, 1343 n.6 (5th Cir. 1994) ("In deciding a 12(b)(6) motion to dismiss, a court may permissibly refer to matters of public record.").

² *Univ. Mall*, 2024 WL 4862986 at *1, 6.

³ *Id.* at *6.

⁴ *Id.*

⁵ *Id.*

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Bank began foreclosure proceedings in June 2023.⁶ University Mall, LLC bought the property at a March 28, 2024, foreclosure sale.⁷

Okorie vigorously opposed foreclosure. He first turned to the bankruptcy court, where he argued that foreclosure violated the automatic stay. The bankruptcy court denied relief, finding it lost jurisdiction once the stay was lifted and Hardy Street was abandoned from the estate.⁸ Okorie then pursued Citizens Bank in state and federal court, each time unsuccessfully.⁹

In this case, Okorie trains his sights on University Mall, its members, and a law firm. His suit largely complains of conduct by non-party Citizens Bank and asserts violations of the Truth in Lending Act (TILA), Real Estate Settlement Procedures Act (RESPA), Racketeer Influenced and Corrupt Organizations Act (RICO), Fair Debt Collection Practices Act (FDCPA), and Due Process Clause of the Fourteenth Amendment.¹⁰

Defendants-Appellees moved to dismiss under Rule 12(b)(6).¹¹ The district court analyzed each claim and found none was viable. It granted the

⁶ See *Okorie v. Citizens Bank*, No. 2024-CP-462, 2025 WL 1637013, at *1 (Miss. Ct. App. June 10, 2025).

⁷ *Univ. Mall*, 2024 WL 4862986, at *7.

⁸ See *Okorie v. Citizens Fin. Grp., Inc.*, No. 23-CV-100, 2023 WL 6214032, at *2 (S.D. Miss. July 20, 2023), *appeal dismissed sub nom., In re Okorie*, No. 23-60505, 2023 WL 10416030 (5th Cir. Nov. 15, 2023).

⁹ See generally *Citizens Bank*, 2025 WL 1637013, at *1-4 (detailing suits in state court); *Okorie v. Citizens Bank*, 743 F. Supp. 3d 807, 815 n.2 (S.D. Miss. 2024) (listing Okorie's actions in federal court); *In re Okorie*, No. 19-50379, 2023 WL 7311173, at *1-10 (Bankr. S.D. Miss. Nov. 6, 2023) (describing history before bankruptcy court).

¹⁰ See 15 U.S.C. §§ 1601-1667f (TILA); 12 U.S.C. §§ 2601-17 (RESPA); 18 U.S.C. §§ 1961-68 (RICO); 15 U.S.C. §§ 1692-1692p (FDCPA); U.S. CONST. amend. XIV, § 1; 42 U.S.C. § 1983 (providing cause of action for constitutional torts).

¹¹ See FED. R. CIV. P. 12(b)(6).

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motion as to Okorie's TILA, RESPA, and FDCPA claims because (1) the loan secured by Hardy Street was not a consumer loan to which the Acts apply,¹² and (2) Okorie failed to allege how Defendants-Appellees violated any of them. It dismissed the RICO claim for failure to plead a continuous pattern of racketeering activity or predicate acts. And it dismissed the due process claim, finding no plausible allegations of state action. Okorie timely appealed. Our review is de novo.¹³

On appeal, Okorie does not dispute that TILA, RESPA, and FDCPA regulate consumer, not commercial, loans. Nor does he dispute that the Hardy Street loan was described as "commercial" in the bankruptcy court.¹⁴ In his telling though, the loan was a consumer loan due to its "blended personal and business elements"—meaning, his "personal guaranty" and the onsite presence of his medical clinic, which provided "his sole household income source." But a personal guaranty, without more, does not change the commercial character of a loan.¹⁵ And Okorie's authorities support the district court's conclusion that the loan was commercial, not personal.¹⁶ Apart from these authorities, we also agree with the district

¹² See 12 U.S.C. § 2606(a)(1); 15 U.S.C. § 1603(1); 15 U.S.C. § 1692a(5).

¹³ See *Hernandez v. W. Tex. Treasures Est. Sales, L.L.C.*, 79 F.4th 464, 469 (5th Cir. 2023).

¹⁴ See *In re Okorie*, 2023 WL 7311173, at *4.

¹⁵ See *First Gibraltar Bank, FSB v. Smith*, 62 F.3d 133, 134–36 (5th Cir. 1995); *Poe v. First Nat'l Bank of DeKalb Cnty.*, 597 F.2d 895, 896 (5th Cir. 1979) (per curiam).

¹⁶ *In re Booth* instructs courts to consider whether a loan is profit-oriented when assessing its character. 858 F.2d 1051, 1055 (5th Cir. 1988). The loan at issue was decidedly profit-driven, even by Okorie's own description of it. Likewise, the out-of-circuit opinion *Thorns v. Sundance Properties* lists five factors to ascertain if certain investments are covered by TILA. 726 F.2d 1417, 1419 (9th Cir. 1984) (quoting 12 C.F.R. § 226.3(a)(1) (1983)). Those factors also bolster the district court's conclusion that the loan here was, indeed, commercial. Okorie's other authorities are either irrelevant, *Poe v. Haydon*, 853 F.2d 418,

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court's conclusion that the complaint does not plausibly allege a violation of any of these statutes.¹⁷

The same holds for Okorie's RICO claim. Okorie argues on appeal that he properly pleaded a RICO "enterprise" or "pattern." But the thrust of his complaint is that Defendants-Appellees proposed a tenancy for his medical clinic after buying Hardy Street, which they were legally entitled to do.¹⁸ The district court correctly found these allegations fail to plausibly plead a RICO claim.¹⁹

The district court also correctly found the complaint lacked allegations of state action, as required to state a constitutional tort under 42 U.S.C. § 1983.²⁰ Okorie now argues a public notary was used "for foreclosure/notices sales under Mississippi's statutory process," and that suffices to establish state action. But Okorie's complaint does not mention a notary. And his single sentence in reply is too conclusory and inadequate to sustain a claim of state action under § 1983. The argument also fails as a matter of law because "no significant state action is involved in non-judicial foreclosures under a deed of trust."²¹

426 (6th Cir. 1988) (involving allegations of sex discrimination), or not found in the reporters, *Oden v. Wilson*.

¹⁷ See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Fin. Acquisition Partners LP v. Blackwell*, 440 F.3d 278, 286 (5th Cir. 2006) ("[T]he plaintiff must plead specific facts, *not conclusory allegations*, to avoid dismissal.").

¹⁸ *Univ. Mall*, 2024 WL 4862986, at *9 (awarding University Mall possession of 3700 Hardy Street and ordering Okorie to pay costs and back rent).

¹⁹ See *Iqbal*, 556 U.S. at 678.

²⁰ See *Cornish v. Corr. Servs. Corp.*, 402 F.3d 545, 549 (5th Cir. 2005).

²¹ *Barrera v. Sec. Bldg. & Inv. Corp.*, 519 F.2d 1166, 1169 (5th Cir. 1975); see also *id.* at 1170-74 ("In sum, we find no significant involvement of the state in non-judicial foreclosure.").

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Finally, Okorie argues the district court should have granted him leave to amend before dismissing his complaint—a decision we review for abuse of discretion.²² Generally, pro se litigants should be given a chance to re-plead, except where they’ve already pleaded their “best case.”²³ We find Okorie has pleaded his best case. In the district court, he did not seek leave to amend; in this court, he “does not explain what an amendment would have contained; and . . . does not state any issues that the amendment would have raised.”²⁴ We thus find no abuse of discretion. AFFIRMED.

²² See *Mendoza-Tarango v. Flores*, 982 F.3d 395, 402 (5th Cir. 2020) (quoting *Brewster v. Dretke*, 587 F.3d 764, 768 (5th Cir. 2009)).

²³ *Id.*

²⁴ *Id.*