United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
November 2, 2026
Thomas B. Plunkett, III
Clerk

No. 26-30227
Summary Calendar

SEAN MICHAEL TILLER,

Plaintiff—Appellant,

versus

CAPITAL ONE, NATIONAL ASSOCIATION,

Defendant—Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:25-CV-1658

Before JONES, HO, and WILSON, *Circuit Judges*.

PER CURIAM:[*]

Plaintiff Sean Michael Tiller brought claims under the Americans with Disabilities Act ("ADA") against his former employer, Capital One, National Association ("Capital One"), alleging retaliation, discrimination, and a hostile work environment. Tiller, proceeding *pro se*, appeals the district court's dismissal of his claims and denial of post-judgment leave to amend

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

his complaint. Because Tiller violated Federal Rule of Appellate Procedure 28 on appeal, his appeal is DISMISSED.

Tiller initiated this action against Capital One on August 7, 2025. The district court found that Tiller had failed to allege sufficient facts to plausibly state a claim under Federal Rule of Civil Procedure 8. The court therefore dismissed Tiller's claims without prejudice on November 13, allowing "Tiller one chance to file an amended complaint that alleges sufficient facts." On November 15, Tiller filed documents that the district court construed as an amended complaint. The court held that the Amended Complaint still did not plausibly state his claims against Capital One, so the court dismissed the action with prejudice on February 5, 2026. The court entered final judgment one day later.

On March 2, Tiller tried to file a second amended complaint.[1] Because the district court had already entered final judgment, the court construed the filing as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e). The court then denied the motion, concluding that Tiller did not satisfy Rule 59(e).

Tiller timely appealed. On appeal, he argues that the district court erred by dismissing his claims, rejecting his Rule 59(e) motion, and denying leave to amend further under Federal Rule of Civil Procedure 15.

Tiller's appeal fails at the outset because his briefing on appeal violated Federal Rule of Appellate Procedure 28. An appellant's brief must include (1) a statement of facts "with appropriate references to the record," and (2) an argument "with citations to the authorities and parts of the record on which the appellant relies." Fed. R. App. P. 28(a)(6), (8)(A). *See also* 5th

[1] Tiller attempted to file a second amended complaint on February 4, 2026, before final judgment. But his filing did not conform to local filing rules.

Cir. R. 28.2.2 ("Every assertion in briefs regarding matter in the record must be supported by a reference to the page number of the original record . . . where the matter is found.").

Tiller's opening brief violated both of these requirements. First, it failed to cite the record even once. Second, it did not adequately cite authorities supporting his contentions or even explaining the applicable legal standards. Several sections of his short brief cited no authority at all. Indeed, his Reply Brief does not deny his failure to cite the record and authorities.

These deficiencies placed a burden on Capital One to reconstruct Tiller's claims along with the record. The appellate rules are designed precisely to prevent such lack of clarity.

Violating "these rules usually results in dismissal of the appeal." *Arredondo v. Univ. of Texas Med. Branch at Galveston*, 950 F.3d 294, 298 (5th Cir. 2020) (citing 5th Cir. R. 42.3.2 ("In all other appeals when appellant . . . fails to comply with the rules of the court, the clerk *must* dismiss the appeal for want of prosecution.") (emphasis added)). "Although we construe a pro se litigant's claims liberally, a pro se litigant 'must still . . . reasonably comply with' Rule 28." *Fosu v. Garland*, 36 F.4th 634, 639 (5th Cir. 2022) (quoting *Rui Yang v. Holder*, 664 F.3d 580, 589 (5th Cir. 2011)). "*[P]ro se* litigants, like all other parties, must abide by the Federal Rules of Appellate Procedure." *United States v. Wilkes*, 20 F.3d 651, 653 (5th Cir. 1994).

Tiller's appeal is therefore DISMISSED.