

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10474

Non-Argument Calendar

DAVID BEAR,

Plaintiff-Appellee,

versus

DOUGLAS B. UNDERHILL,

Defendant-Appellant,

ESCAMBIA COUNTY BOARD OF COUNTY
COMMISSIONERS, et al.,

Defendant.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 3:19-cv-04424-MCR-HTC

Before JORDAN, ROSENBAUM, and JILL PRYOR, Circuit Judges.

PER CURIAM:

Upon review of the record and the parties' responses to the jurisdictional question, this appeal is DISMISSED for lack of jurisdiction.

The parties' July 12, 2022 stipulation of dismissal of Count V of the amended complaint was invalid under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) because that Rule permits dismissal only of "an entire action," and not particular claims. *See Rosell v. VMSB, LLC*, 67 F.4th 1141, 1144 (11th Cir. 2023). The district court's March 25, 2023 ruling that Count V was moot, pursuant to the defective July 12, 2022 stipulation, was thus also ineffective to resolve Count V. *See id.*

Although we have recognized that a plaintiff may dismiss all claims against a particular defendant under Rule 41(a), *see id.*, the stipulation did not resolve all claims asserted against either Douglas Underhill or the Escambia County Board of County Commissioners. Further, we decline to construe the stipulation as an attempt to abandon Count V, as the stipulation expressly invoked Rule

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41(a)(1)(A)(ii) and was not styled in any way as an abandonment of Count V.

Accordingly, Count V has not been resolved and remains pending before the district court. We thus lack jurisdiction to consider this appeal. *See* 28 U.S.C. § 1291; *Supreme Fuels Trading FZE v. Sargeant*, 689 F.3d 1244, 1246 (11th Cir. 2012).