

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-14910
Non-Argument Calendar

D.C. Docket No. 9:18-cv-81111-RLR

DR. PEPI SCHAFLER, JD, MS,

Plaintiff-Appellant,

versus

ESTHER M. SUMMER,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(August 21, 2019)

Before WILLIAM PRYOR, BRANCH, and GRANT, Circuit Judges.

PER CURIAM:

Pepi Schafler, proceeding *pro se*, sued Esther Summer in the United States District Court for the Southern District of Florida. Summer was, according to the complaint,¹ a trustee of Donald Summer's estate. Schafler and Donald were married in 1968 and lived together in New York. In 1978, the two decided to purchase a 25-year bond to assist in building Watergate, a housing complex for senior citizens. Unfortunately, Schafler says, at some point Donald began to engage in serious criminal activity. In 1984, Schafler initiated divorce proceedings. As a result of those proceedings, a New York court declared any interest in Watergate was marital property to be divided equally. In 2004 or 2005, when the bond matured, Schafler received \$7,000. But at some point in late 2017 or 2018, Schafler learned that Donald had concealed her share of additional Watergate profits, which she said amounted to \$1,000,000.² Schafler asserted that Donald had established a trust into which he placed the stolen money.

Because Donald had died in 2017, Schafler sued Summer, Donald's wife at the time of his death. She asserted three causes of action. First, she sought to enforce the New York court order and to obtain 50% of the allegedly concealed Watergate profits. Second, she alleged Donald defrauded her and "had a legal duty

¹ We construe the complaint liberally and in the light most favorable to Schafler. We do not opine on the accuracy of the complaint's statements.

² The complaint suggests that Donald received \$2,000,000 from a Watergate-related investment.

to comply” with the court’s order. Finally, she said Summer “aided and abetted” in this, and perhaps other, fraud.³

Summer answered the complaint. She asserted Donald’s will had not been submitted to probate and that there was no estate to be sued. She further asserted, as an “affirmative defense,” that there was another action pending in state court in New York. Schafler had filed that suit against Summer over a year before she filed this one. According to Summer, in the New York lawsuit, Schafler asserted “verbatim the same . . . three claims stated in this action.” Discovery was ongoing. Summer asked the district court to dismiss the complaint. The district court ordered Schafler to respond, but she did not.

The district court dismissed the complaint without prejudice. It applied two abstention doctrines in concluding that dismissal was appropriate. First, it determined that *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976), applied because there was state court litigation involving the same subject matter and parties; the state court litigation was “significantly more advanced”; and “[a]llowing this case to proceed would result in piecemeal litigation and judicial inefficiencies.” Second, it determined that the substance of

³ In the prayer for relief, Schafler referred to relief related to a “fourth cause of action,” though one had not been pleaded.

Schafler’s complaint arose from a divorce decree, such that the domestic-relations exception applied.

Schafler moved for reconsideration. In the motion, she asserted conclusorily that she was entitled to proceed on the merits. She also asserted no one in New York has “standing,” and she said the district court had “transferred this matter to New York City.” The district court denied the motion without prejudice because Schafler failed to confer with Summer’s counsel, as required by the local rules.

Schafler appeals. She reiterates many factual allegations and legal arguments from her complaint and generally insinuates—or at times asserts—that the district court did not consider her arguments or was biased against her.⁴

A *pro se* litigant who does not address an issue in her initial brief abandons the issue on appeal. *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008). Issues must be raised “plainly and prominently.” *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680–81 (11th Cir. 2014). Indeed, issues not “plainly and prominently” raised are deemed abandoned. *See id.* at 681 (“We have long held that an appellant abandons a claim when he either makes only passing references to

⁴ Schafler also suggests, at various points, that the district court denied her due process. The “central features of due process,” we have explained, are “notice [and] an opportunity to be heard.” *Graham v. R.J. Reynolds Tobacco Co.*, 857 F.3d 1169, 1184 (11th Cir. 2017). The district court ordered Schafler to respond to Summer’s motion to dismiss. Schafler did not respond, but she was on notice and had an opportunity to be heard.

Further, Schafler raises an equal protection argument regarding a different judge who, Schafler says, classified her as a vexatious litigant. That issue is not before us.

it or raises it in a perfunctory manner without supporting arguments and authority.”).

Schafler has failed to challenge “plainly and prominently” either of the district court’s bases for dismissal. She does not *once* mention either abstention doctrine in her briefing. Nor does she address the litigation she herself initiated in New York.⁵ The failure to address the district court’s reasoning is fatal to Schafler’s appeal. *Cf. id.* at 680 (“To obtain reversal of a district court judgment that is based on multiple, independent grounds, an appellant must convince us that every stated ground for the judgment against him is incorrect.”). Similarly, Schafler does not mention the motion for reconsideration or, consequently, argue how the district court erred in denying that motion.

Accordingly, we affirm the judgment of dismissal without prejudice.

AFFIRMED.

⁵ Instead, she builds on her complaint’s factual allegations. Schafler’s reply brief contains pages copied and pasted from the complaint.