

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7294

BRYAN GOYER,

Petitioner - Appellant,

v.

PAUL ADAMS,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. John Preston Bailey, District Judge. (5:21-cv-00009-JPB-JPM)

Submitted: November 16, 2022

Decided: December 22, 2022

Before WILKINSON and QUATTLEBAUM, Circuit Judges, and MOTZ, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Bryan Goyer, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bryan Goyer, a federal prisoner, appeals the district court's order denying relief on his 28 U.S.C. § 2241 petition. The district court granted Respondent's motion to dismiss Goyer's petition after finding, based on documentation Respondent submitted in support of the motion to dismiss, that Goyer's due process rights were not violated during disciplinary proceedings that led to the revocation of his good time credits. Goyer raises multiple assignments of error on appeal, including that the district court erroneously failed to consider Goyer's claims that (1) he was not provided required notices; (2) signatures on documents Respondent produced in support of his motion to dismiss were forged; and (3) Goyer was not allowed to have a staff representative review surveillance video of his alleged disciplinary infraction. We vacate and remand to the district court.

We review de novo the district court's order granting a motion to dismiss and denying habeas corpus relief. *Holloway v. Maryland*, 32 F.4th 293, 298 (4th Cir. 2022); *Lenear v. Wilson*, 937 F.3d 257, 267 (4th Cir. 2019). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

Admittedly, "[p]rison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of rights due a defendant in such proceedings does not apply." *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974). Nevertheless, "constitutional

procedural due process protections extend to prison disciplinary proceedings that could adversely impact an inmate’s liberty interests.” *Lennear*, 937 F.3d at 268. Prisoners have a liberty interest in the good time credits they have earned. *Id.*

“[I]n a disciplinary hearing in which an inmate’s liberty interests are at stake, government officials must provide the inmate with written notice of the charges at least 24 hours before the hearing as well as a written report after the hearing detailing the evidence relied upon and the reasons for the disciplinary action.” *Id.* An inmate also “has a qualified right to call witnesses and present documentary evidence in his defense . . . unless unduly hazardous to institutional safety or correctional goals.” *Id.* (internal quotation marks omitted).

Moreover, we recently held “that inmates at risk of being deprived of a liberty interest, like good time credits, have a qualified right to obtain and compel consideration of video surveillance evidence.” *Id.* at 273-74. Accordingly, upon an inmate’s request, an inmate is entitled access to, or disciplinary hearing officer review of, prison video surveillance evidence pertaining to a disciplinary infraction unless the government establishes that disclosure or consideration of such evidence would be, “under the particular circumstances of the case, unduly hazardous to institutional safety or correctional goals.”* *Lennear*, 937 F.3d at 269, 272 (internal quotation marks omitted). “[I]f prison

* *Lennear* was decided by this court on August 23, 2019, which was after Goyer’s hearing before the Disciplinary Hearing Officer. As Goyer’s disciplinary case did not become final until December 19, 2019, when he exhausted his administrative remedies, we conclude that *Lennear*’s new procedural rule is applicable here. *Accord Wall v. Kiser*, 21 (Continued)

officials fail to identify a specific safety or correctional concern, courts may not speculate as to the officials' potential reasons for denying an inmate access to evidence in order to uphold a disciplinary decision." *Id.* at 270 (internal quotation marks omitted).

Here, Goyer faced the possibility of the loss of earned good time credits because of his disciplinary charge and, thus, he was undoubtedly entitled to the above-mentioned rights. Goyer nonetheless alleged that his due process rights were violated when he was: (1) not served with the incident report within 24 hours ("24-hour claim"); (2) denied the opportunity to have a staff representative review video surveillance on his behalf; (3) not allowed to call witnesses or even given information about who was present at the time of the alleged disciplinary infraction; and (4) not informed of his right to present documentary evidence in his defense.

We conclude that the district court erred when it dismissed Goyer's petition. Although the district court properly informed Goyer about Respondent's motion to dismiss, informed Goyer that the court was required to accept as true all well-pleaded material factual allegations, and warned Goyer that he had 21 days to inform the court why his case should not be dismissed, the district court improperly converted Respondent's motion to dismiss into a summary judgment motion without affording Goyer an opportunity to substantiate his allegations. *See* Fed. R. Civ. P. 12(d) ("If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the

F.4th 266, 275 (4th Cir. 2021) (concluding that the rule announced in *Lennear* does not apply retroactively to cases on collateral review), *cert. denied*, 142 S. Ct. 2824 (2022).

motion must be treated as one for summary judgment under [Fed. R. Civ. P.] 56 [and a]ll parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.”).

To be sure, a district court is within its discretion to consider documents “integral to and relied upon in the complaint” where “the plaintiff does not question their authenticity.” *Fairfax v. CBS Corp.*, 2 F.4th 286, 292 (4th Cir. 2021). But here, Goyer denies that he signed the forms confirming that he was notified of his rights, and he denies declining the opportunity to present evidence or witnesses in his defense in front of the Disciplinary Hearing Officer.

Accordingly, rather than accept Respondent’s evidence as dispositive of Goyer’s claims, the district court was required to accept as true the allegations in Goyer’s complaint. *See Ray v. Roane*, 948 F.3d 222, 226 (4th Cir. 2020) (recognizing that, when ruling on a motion to dismiss, “a court must accept as true all of the factual allegations contained in the complaint and draw all reasonable inferences in favor of the plaintiff” (internal quotation marks omitted)). Indeed, we recently confirmed that, in a situation similar to the one the district court faced here, a court is required to conduct an evidentiary hearing to resolve any factual disputes. *Lennear*, 937 F.3d at 275 (“[W]hen a prisoner who seeks a writ of habeas corpus provides competent evidence (such as an affidavit by someone with personal knowledge of the events) contradicting an assertion by the prison disciplinary board on a material question of fact pertinent to an issue of constitutional law, the district court must hold an evidentiary hearing to determine where the truth lies.” (internal quotation marks omitted)).

Because the district court failed to make critical factual determinations bearing on whether Goyer's disciplinary proceeding violated Goyer's due process rights, we vacate the district court's order and remand the case for further proceedings consistent with this opinion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED