

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 24-2991

ANDRE BOYER; PENNSYLVANIA S.I.T.E.S. AGENTS, LLC,
Appellants

v.

CITY OF PHILADELPHIA; DISTRICT ATTORNEY PHILADELPHIA; PHILADELPHIA OFFICE OF
THE SHERIFF; SHERIFF OF PHILADELPHIA COUNTY; PHILADELPHIA LODGE NO. 5, FRATER-
NAL ORDER OF POLICE, ET AL.

Appeal from U.S. District Court, E.D. Pa.
Judge Jeffrey L. Schmehl, No. 5:23-cv-02885

Before: MATEY, FREEMAN, AND CHUNG, *Circuit Judges*
Submitted: Mar. 20, 2026; Filed: Aug. 24, 2026

NONPRECEDENTIAL OPINION*

MATEY, *Circuit Judge*. Andre Boyer was fired from the Philadelphia Police Department in 2013. *Boyer v. City of Phila.*, No. 13-6415, 2018 WL 4252378, at *2 (E.D. Pa. Sept. 5, 2018). Around the time of his termination, Boyer created a website called *Serpico News*, criticizing the Philadelphia Police Department, the Philadelphia Sheriff’s Office, and a Philadelphia chapter of the Fraternal Order of Police (“FOP”). Boyer alleges that, as retaliation for *Serpico News*, FOP and the other defendants “engage[d] in a pattern of personal animus against [him] . . . repeatedly look[ing] for any pretext to violate his rights, including by way of assault, battery, and false imprisonment,” and “prevent[ing] his ability

* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

to obtain a license under the Private Detective Act and the Uniform Firearms Act and then look[ing] for any pretext to prosecute him [under] those statutes.” App. 116.

As alleged, those “violations of his rights” relate specifically to a few episodes. One occurred in 2016 when Boyer brought his gun into a courthouse, which prompted the City of Philadelphia to revoke his license to carry.¹ Another describes the City’s denials of Boyer’s application for a private detective license,² which he claims unlawfully impacted his entrepreneurial foray into private security services. Boyer further alleges the defendants gratuitously arrested and charged Boyer on three separate occasions since 2019.³ Finally, Boyer alleges the City wrongfully denied his 2023 application for a license to carry, which the City justified based on Boyer’s three arrests.

The District Court dismissed claims made against FOP with prejudice because they were time-barred. As for the other defendants, the Court found Boyer’s second amended complaint was incomprehensibly “murk[y],” dismissed the claims without prejudice, and instructed that Boyer “must file an amended pleading that properly and concisely sets forth

¹ Boyer maintains that he did not carry a firearm in the courthouse and that Deputy Sheriff Robert Lee falsely testified against him, under oath, at the License & Inspection Review Board’s appeal hearing.

² In January 2016, Boyer filed a petition for a private detective license, which the District Attorney’s Office denied, stating that Boyer failed to meet requisite qualifications under the Private Detective Act. Boyer claims this was a willful misapplication of the law. Boyer filed a second application in October 2016, which the District Attorney’s Office denied based on collateral estoppel, a decision Boyer also contests now.

³ These charges were for, respectively: 1) openly carrying a firearm in a police station without a license in violation of 18 Pa. C.S. § 6108, 2) simple assault for his conduct while effectuating a citizen’s arrest of a member of the public who “engaged in disorderly conduct in [his] presence” while Boyer worked security at a hotel, App. 119, and 3) carrying a firearm at the Criminal Justice Center, which is public property, without a license, again in violation of § 6108.

exactly what each count of his complaint is alleging, what constitutional violations have allegedly been committed, and what relief he is seeking if he wants to proceed with th[e] lawsuit.” App. 3. Boyer did not file an amended complaint and brought this appeal instead.⁴

The District Court properly dismissed claims against FOP because all of Boyer’s allegations occurred over six years before he filed suit, well outside the two-year limitations period. Claims under 42 U.S.C. § 1983 are subject to a two-year statute of limitations in Pennsylvania. *Garrett v. Wexford Health*, 938 F.3d 69, 84 n.19 (3d Cir. 2019). “[A] limitations defense” may be raised on a motion to dismiss when “the time alleged in the statement of a claim shows that the cause of action has not been brought within the statute of limitations.” *Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014) (internal quotation marks omitted). “[A] cause of action accrues, and the statute of limitations begins to run, when the plaintiff knew or should have known of the injury upon which its action is based,” a

⁴ The District Court had jurisdiction under 28 U.S.C. §§ 1331 and 1367. We have jurisdiction under 28 U.S.C. § 1291 given Boyer’s “clear and unequivocal intent to decline amendment and immediately appeal.” *Weber v. McGrogan*, 939 F.3d 232, 240 (3d Cir. 2019). “We exercise plenary review of the District Court’s dismissal,” *Phila. Taxi Ass’n, Inc. v. Uber Techs., Inc.*, 886 F.3d 332, 338 (3d Cir. 2018), and “may affirm on any basis supported by the record, even if it departs from the District Court’s rationale,” *TD Bank N.A. v. Hill*, 928 F.3d 259, 270 (3d Cir. 2019).

However, Boyer lacks Article III standing to prosecute Count 2 of his Second Amended Complaint. Count 2 seeks declaratory relief from 19 Pa. C.S. § 913, which makes it unlawful to “knowingly possesses a firearm or other dangerous weapon in a court facility or knowingly causes a firearm or other dangerous weapon to be present in a court facility.” Yet “Boyer . . . intend[s] to surrender possession of his firearm to government authority while entering a courthouse or government building.” App. 137. Since he has vowed to comply with § 913 in this regard, Boyer is not likely to suffer “future injury.” *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024).

determination made under an “objective inquiry.” *Kach v. Hose*, 589 F.3d 626, 634 (3d Cir. 2009) (internal citations and quotation marks omitted).

Boyer’s § 1983 claims against FOP are time-barred. The only apparent injury Boyer suffered because of FOP’s actions was the revocation of his license to carry in 2016, but he did not file suit until 2023. Boyer was aware of his injury—indeed, he filed suit against FOP in 2018 based on the same set of facts but withdrew that lawsuit.

Boyer’s state-law claims are also subject to a two-year statute of limitations. 42 Pa. C.S. § 5524.⁵ Boyer would have known he had a malicious prosecution claim, at the latest on December 20, 2016, when the hearing regarding his license revocation took place. And while it is unclear from the Complaint where Boyer suffered “apprehension of harmful or offensive contact,” *i.e.*, assault and battery, there are no facts from after 2016 to support this allegation. Finally, the latest factual allegation that could support false imprisonment occurred on May 20, 2016, when a deputy questioned Boyer about whether he had a gun in the courthouse.⁶

Boyer’s conspiracy allegations cannot rescue these claims. “A conspiracy claim must also contain . . . allegations . . . sufficient to describe the general composition of the conspiracy, some or all of its broad objectives, and the defendant’s general role in that

⁵ The same accrual rule applies under Pennsylvania law. *See Duboise v. Quinlan*, 173 A.3d 634, 640 (Pa. 2017).

⁶ Similar claims predicated on Boyer’s October 2021 arrest made against defendants O’Leary, the City, and the Sheriff’s Office, while not untimely, do not plausibly allege a claim for relief. As is clear from the complaint, that arrest was made with probable cause. So § 1983 and state tort claims must fail. *See Harvard v. Cesnalis*, 973 F.3d 190, 203 (3d Cir. 2020); *Renk v. City of Pittsburgh*, 641 A.2d 289, 293 (Pa. 1994).

conspiracy.” *Rose v. Bartle*, 871 F.2d 331, 366 (3d Cir. 1989) (internal citations and quotation marks omitted). Boyer pleads no facts suggesting that a conspiracy involving FOP existed, beyond mere conclusory statements. These allegations are, thus, disregarded. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).⁷

The rest of Boyer’s complaint was correctly dismissed as “replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action.” *Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313, 1322 (11th Cir. 2015).⁸

For these reasons we will AFFIRM the District Court’s judgment.⁹

⁷ The District Court did not abuse its discretion in finding that any grant of leave to amend the Complaint for claims against FOP would be futile because “any action brought by Plaintiff for those alleged actions taken by Defendant FOP would need to have been filed by 2018.” App. 2; *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

⁸ Boyer has forfeited his First Amendment retaliation claim by failing to raise it in his opening brief. *See United States v. Savage*, 970 F.3d 217, 281 n.70 (3d Cir. 2020).

⁹ Judge Chung dissents as to Count 1, the facial and as-applied challenge to the constitutionality of 18 Pa. C.S. §§ 6101-6128, Pennsylvania’s Uniform Firearms Act. Second Amended Complaint (“SAC”) ¶ 161. Judge Chung would conclude that Boyer brought Count 1 in a timely manner since he was most recently denied a license to carry a firearm in Philadelphia in June 2023, SAC ¶ 92-93, and commenced the instant action on July 27, 2023. She disagrees that the factual allegations set forth in support of that count are conclusory. Count One is premised on, among other things, the assertion that Boyer should not have been denied a carry license based on arrests, SAC ¶ 161, rather than convictions. SAC ¶ 93 (alleging that the June 2023 denial referenced Boyer’s prior arrests as justification for rejecting his application). Accordingly, Judge Chung would reverse and allow Count 1 to proceed to discovery.