NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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Nos. 25-1795 & 25-2394 (consolidated)

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TAMIERA S. HARRIS, an individual,
Appellant

v.

CITY OF PHILADELPHIA; CYNTHIA FIGUEROA; MIRIAM COLON; KENNETH DIXON; CHARISE GALE; TIFFANY VANN; CATERINA GALLELLI; SHARON CONAWAY; CRAIG MARTELLA; REGAN P. KELLY; SHANEAL SINGLETON; ANGELA JORDAN; NORTHEAST TREATMENT SERVICES, INC.; KIMBERLY ALI; CHRISTINA JOHNSON; RANDY YOUNG; SHERELL PATTERSON; ANN MYERS; BRIDGET MITCHELL; KATHRYN KIEHLE; ANDRE MARTINO; DOES 1 THROUGH 10

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On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:20-cv-01512)
District Judge: Honorable Paul S. Diamond

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Submitted Pursuant to Third Circuit LAR 34.1(a)
August 21, 2026

Before: CHAGARES, *Chief Judge*, HARDIMAN and FREEMAN, *Circuit Judges*

(Opinion filed November 3, 2026)

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OPINION*

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* This disposition is not an opinion of the full Court and pursuant to 3d Cir. I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Tamiera S. Harris, proceeding pro se, appeals from the District Court's dismissal of her claims. We will affirm.

I.

On March 19, 2020, Harris filed a complaint in the United States District Court for the Eastern District of Pennsylvania stemming from the December 22, 2017, removal of a minor child, T.H., from her custody and care.[1] Her operative complaint raises claims under 42 U.S.C. §§ 1983 and 1985, a related *Monell* claim, and state law claims against three groups of defendants: (1) Northeast Treatment Services, Inc. and several of its employees ("NET Defendants"); (2) the City of Philadelphia and several of its employees ("City Defendants"); and (3) child advocate Andre Martino.[2]

After Harris filed her initial complaint, defendants moved to dismiss. Before the District Court ruled on the pending motions, Harris filed an amended complaint. The District Court then dismissed that complaint without prejudice based on her failure to serve numerous defendants, including the NET Defendants, as well as her failure to comply with the pleading requirements of Fed. R. Civ. P. 8. The court granted Harris

[1] Harris first attempted to challenge these proceedings in an action filed in 2019. The District Court dismissed the case without prejudice for failure to prosecute. *See Harris v. City of Phila.*, No. 19-cv-05436 (E.D. Pa., order entered Mar. 10, 2020).

[2] Harris brought claims for "unwarranted seizure" and "judicial deception" under § 1983 and for conspiracy to violate civil rights under § 1985, "*Monell*-related claims," and a claim for declaratory relief. She also brought state law claims for false imprisonment, assault, battery, invasion of privacy, defamation, violation of state civil rights, abuse of process, fraud, intentional infliction of emotional distress, negligence and negligent infliction of emotional distress, and breach of contract.

leave to amend, noting that her complaint was "scattershot" and largely "incomprehensible," ECF 55 at 7, and advising her that failure to cure the deficiencies in service and in her pleadings would result in dismissal of her claims with prejudice.

Harris filed another amended complaint, which all three groups of defendants moved to dismiss. She also filed motions "to Notify Court of Ongoing Constitutional Violations and to Preserve Rights to Amend Complaint," and "for Leave to File Third Amended Complaint and Request for Protective Order." On March 24, 2025, the District Court granted the NET Defendants' motion, dismissing Harris's claims against NET Defendant Sherell Patterson for failure to state a claim, and against all other NET Defendants for failure to properly serve within 90 days.[3] Fed. R. Civ. P. 4(m); Fed. R. Civ. P. 12(b)(5). The District Court also denied Harris's pending motions. She appealed.

Later, on June 25, 2025, the District Court granted the City Defendants' motion, dismissing Harris's federal claims and some state law claims with prejudice, and declining to exercise supplemental jurisdiction over the remaining state law claims.[4] The court also granted Martino's motion, dismissing Harris's claims against him with

[3] The District Court determined that service upon Patterson, who had been personally served, was proper.

[4] "Although it is unusual, it is permissible for the federal court to decide one supplemental claim on the merits while declining to hear another supplemental claim." *Coleman v. City of Peoria, Illinois*, 925 F.3d 336, 352 (7th Cir. 2019) (quoting 13D Charles Alan Wright, et al., *Federal Practice and Procedure* § 3567.3 (3d ed. Apr. 2019 supp.) (citation modified)).

prejudice for failure to comply with Rule 8(a). Harris filed another notice of appeal, and we consolidated the two appeals for disposition[5].

II.

We have jurisdiction under 28 U.S.C. § 1291. We exercise plenary review of dismissals pursuant to Fed. R. Civ. P. 12(b)(6), *see Spruill v. Gillis*, 372 F.3d 218, 226 (3d Cir. 2004), and we review the denial of leave to amend for abuse of discretion. *See In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997).

III.

We first address the District Court's dismissal of the NET Defendants—excluding Patterson—for insufficient service of process. Rule 4(m) of the Federal Rules of Civil Procedure provides that "[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Here, after Harris initiated this action on March 19, 2020, she failed to serve any defendants properly. The District Court advised Harris of the relevant standards on multiple occasions and gave her opportunities to establish proper service on the NET Defendants in 2023 and 2024. Still, she failed to provide sufficient proof of service with respect to all but one NET Defendant. Because the burden of proof was on Harris to establish that service was proper, *see Grand Ent. Grp., Ltd. v. Star Media Sales,*

[5] Though the first appeal was filed prematurely, it ripened with entry of the District Court's June 25, 2025 order. *See Cape May Greene, Inc. v. Warren*, 698 F.2d 179, 184-85 (3d Cir. 1983).

Inc., 988 F.2d 476, 488 (3d Cir. 1993) (citation omitted), the District Court did not abuse its discretion in concluding that she failed to do so. *See Ayres v. Jacobs & Crumplar, P.A.*, 99 F.3d 565, 568 (3d Cir. 1996).

However, when a district court dismisses an action for lack of proper service, the dismissal must be "without prejudice." Fed. R. Civ. P. 4(m); *Umbenhauer v. Woog*, 969 F.2d 25, 30 n.6 (3d Cir. 1992). Accordingly, we will modify the District Court's order to dismiss the NET Defendants without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

IV.

Turning to the claims the District Court reached on the merits, we agree that Harris's § 1983 claims for "unwarranted seizure" and "judicial deception," her related *Monell* claim, and her state law claims against the City Defendants are barred by the applicable statutes of limitations.[6] Section 1983 claims are governed by Pennsylvania's two-year statute of limitations for personal injury actions, which begins to run when the plaintiff "knew or should have known of the injury upon which [the] action is based." *Kach v. Hose*, 589 F.3d 626, 634 (3d Cir. 2009) (citation modified). That two-year statute of limitations likewise applies to state law claims for false imprisonment, assault, and battery, *see* 42 Pa. Cons. Stat. § 5524(1)-(2), while claims for defamation and invasion of privacy are subject to a one-year statute of limitations. *See* 42 Pa. Cons. Stat. § 5523.

[6] A timeliness defense may be raised under Rule 12(b)(6) where, as here, the time-bar is apparent on the face of the complaint. *See Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014).

As the District Court noted, it is clear from Harris's complaint that she knew of her alleged injuries immediately after the removal of T.H. from her home on December 22, 2017. Accordingly, her claims began accruing on that date, and the applicable limitations period expired on December 22, 2019. Because Harris did not initiate this action until March 2020, her federal and state law claims against the City Defendants are untimely.

Harris's arguments on appeal do not establish a basis for delaying accrual or tolling the applicable limitations periods on any of her claims. She first contends that the continuing violations doctrine applies, rendering her claims timely. But that doctrine does not apply where, as here, the plaintiff was "aware of the injury at the time it occurred." *See Morganroth & Morganroth v. Norris, McLaughlin & Marcus, P.C.*, 331 F.3d 406, 417 n.6 (3d Cir. 2003) (citation omitted). In support of her argument, Harris points to later dependency proceedings and subsequent related conduct of the City Defendants, but those allegations concern the "continual ill effects" of the removal of T.H.; they do not constitute new injuries that restarted the limitations period.[7] *See Cowell v. Palmer Twp.*, 263 F.3d 286, 293 (3d Cir. 2001); *see also K.W. ex rel. K.A. v. City of New York*, 177 F.4th 127, 150-51 (2d Cir. 2026) (holding that the continuing violations theory does not apply to a § 1983 procedural due process claim involving the removal of a child because the claim accrued "as soon as [the parent] lost custody").

[7] To the extent Harris seeks review of the state court dependency proceedings and application of state law, her claim is unreviewable in federal court.

Harris also claims that the discovery rule applies. She is incorrect. The discovery rule delays accrual only where a plaintiff, despite the exercise of due diligence, could not have known of the injury or its cause. *See Mest v. Cabot Corp.*, 449 F.3d 502, 510 (3d Cir. 2006). Harris knew of the injury giving rise to her claims when T.H. was removed from her custody, and the rule does not delay accrual until a plaintiff learns the full extent of defendants' conduct or uncovers every related unlawful act.[8]

The same reasoning forecloses Harris's claims against NET Defendant Patterson. According to the complaint, Patterson's alleged involvement in the underlying events was limited to testimony she gave during a February 2017 state court proceeding. Harris acknowledges that she was aware of this allegedly false testimony at the hearing by August 2017. *See* C.A. Doc. 24 at 18 ("August 21, 2017, [is] the discovery date for the false February 2017 testimony."). Accordingly, Harris's claims against Patterson accrued, at the latest, in August 2017, and the applicable limitations periods expired no later than August 2019, months before she initiated this action.

We also agree with the District Court that Harris failed to state a plausible § 1985 civil conspiracy claim because she did not plead facts alleging "some racial, or . . . class-based, invidiously discriminatory animus[.]" *Farber v. City of Paterson*, 440 F.3d 131, 135 (3d Cir. 2006) (citation modified).

[8] Harris also argues that her claims should be equitably tolled because Defendants' conduct caused her to develop "severe anxiety" and a "sleep disorder." As Harris did not raise this argument in the District Court, it is forfeited on appeal. *See*, *e.g.*, *DIRECTV Inc. v. Seijas*, 508 F.3d 123, 125 n.1 (3d Cir. 2007) (citing *Belitskus v. Pizzingrilli*, 343 F.3d 632, 645 (3d Cir. 2003)).

Finally, given the deficiencies above, the District Court did not abuse its discretion in determining that granting Harris further leave to amend would have been futile. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 106 (3d Cir. 2002); *Krantz v. Prudential Invs. Fund Mgmt. LLC*, 305 F.3d 140, 144 (3d Cir. 2002) (per curiam) ("A District Court has discretion to deny a plaintiff leave to amend where the plaintiff was put on notice as to the deficiencies in [her] complaint, but chose not to resolve them."). Further, to the extent Harris claims that the District Court erred by "failing to address ongoing constitutional violations raised in [ECF] 97," C.A. Doc. 24 at 7, she is mistaken. The District Court clearly addressed the alleged violations in the order dismissing Harris's claims against the NET Defendants.

Accordingly, we will affirm the District Court's judgment as modified.[9]

[9] We grant the NET Appellees' motion to supplement the appendix, which Appellee Martino has moved to join. We likewise grant Harris's motion to file a supplemental reply brief out-of-time. To the extent any party requests additional relief, it is denied.