

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 26-80296-CV-MIDDLEBROOKS

JOSEPH KIRCHNER,

Plaintiff,

v.

ALEXANDER ACOSTA,

Defendants.

ORDER DISMISSING COMPLAINT

THIS CAUSE is before the Court *sua sponte*. Plaintiff filed a Complaint on March 18, 2026. (DE 1). The Complaint does not comport with the minimum pleading standards under the Federal Rules of Civil Procedure. For the reasons set forth below, the Complaint is dismissed.

At the outset, I note that Plaintiff's recitation of the facts are at times rambling and disorganized rendering it difficult to follow the alleged chronology of events. Plaintiff's primary contention seems to be that Defendant Acosta exceeded his prosecutorial authority in extending non-prosecution agreements. (DE 1 at 9).

The Complaint is first deficient in that it fails to comport with the requirements of the Federal Rules of Civil Procedure. Rule 8(a) requires a "short and plain statement of the claim." Under Rule 8(d)(1), "[e]ach allegation must be simple, concise, and direct." Further, Rule 10(b) requires that each claim be stated "in numbered paragraphs, each limited as far as practicable to a single set of circumstances." The factual allegations are not facts at all, but instead a collection of paragraphs veering from one legal doctrine to another. Plaintiff must ensure that an Amended

Complaint contains paragraphs that are not excessive in length and limited to “simple, concise, and direct” allegations.

Moreover, Plaintiff’s Complaint is an impermissible shotgun pleading. Shotgun pleadings waste judicial resources and are an unacceptable form of establishing a claim for relief. *Strategic Income Fund, LLC v. Spear, Leeds & Kellogg Corp.*, 305 F.3d 1293, 1296 (11th Cir. 2002). The Eleventh Circuit has generally identified four categories of shotgun pleadings. *See Weiland v. Palm Beach Cty. Sheriff’s Office*, 792 F.3d 1313, 1321–23 (11th Cir. 2015) (citations omitted). “The most common” shotgun pleading is one “containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint.” *Id.* at 1321. “The next most common type . . . is a complaint that [is] . . . replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action.” *Id.* at 1321–22. “The third type of shotgun pleading is one that . . . [does] not separat[e] into a different count each cause of action or claim for relief.” *Id.* at 1322–1323. Lastly, “there is the relatively rare [shotgun pleading] asserting multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions or which of the defendants the claim is brought against.” *Id.* at 1323.

Plaintiff’s Complaint is a shotgun pleading because it does not separate each claim for relief into separate counts and contains irrelevant and immaterial allegations. *See Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1359 n. 9 (11th Cir. 1997) (finding a shotgun pleading where “a reader of the complaint must speculate as to which factual allegations pertain to which count”). Plaintiff makes allegations of due process violations, separation of powers violations, federal child protection statute violations, conspiracy violations, and equal protection violations. Yet, multiple

counts purport to bring several claims, for example counts two and seven. *See Bickerstaff v. Clay Prods. Co., Inc. v. Harris Cnty., Ga.*, 89 F.3d 1481, 1485 n.4 (11th Cir. 1996) (“The complaint is a typical shotgun pleading, in that some of the counts present more than one discrete claim for relief.”). Plaintiff also incorporates all counts into each other such that I am left to parse out what allegations relate to each count. It is thus exceedingly difficult to discern what discrete claims for relief Plaintiff intends to bring and what factual allegations he contends support each claim for relief. Further, I note that the deficiencies identified in this Order are not all the deficiencies observed in this Complaint.

For the foregoing reasons, Plaintiff’s Complaint shall be dismissed without prejudice. *See Carvel v. Godley*, 404 F. App’x. 359, 360 & n.2 (11th Cir. 2010) (affirming dismissal of 38-page complaint with more than 300 numbered paragraphs for failure to comply with plain statement requirement of Rule 8); *B.L.E. v. Georgia*, 335 F. App’x. 962, 963 (11th Cir. 2009) (affirming dismissal of “rambling, prolix pleading”); *Lampkin-Asam v. Volusia Cty. Sch. Bd.*, 261 F. App’x 274, 275 (11th Cir. 2008) (affirming *sua sponte* dismissal of confusing, incoherent complaint). This Order serves as Plaintiff’s **sole warning** as to pleading violations and any further pleading deficiencies may result in dismissal with prejudice. *See Vibe Micro*, 878 F.3d at 1296 (holding that a district court must give a litigant only one chance to re-plead before dismissal with prejudice on non-merits shotgun pleading grounds).

CONCLUSION

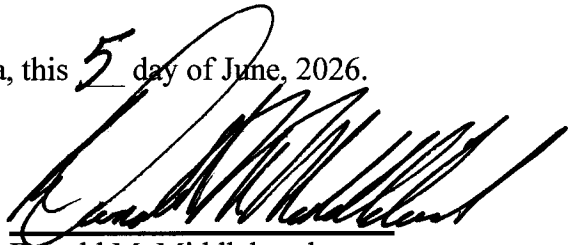
Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Plaintiff’s Complaint (DE 1) is **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall have ***one opportunity*** to file a coherent and rule-compliant complaint which cures all the deficiencies identified in this Order. If Plaintiff still wishes to pursue this action,

he may file an Amended Complaint by **June 18, 2026**. Alternatively, Plaintiff may file a Notice of Voluntary Dismissal by that date.

2. Plaintiff shall ensure that any Amended Complaint contains a short and plain statement of the claim, does not contain excessively long numbered paragraphs, and otherwise fully complies with the requirements of Federal Rules of Civil Procedure 8 and 10.
3. Plaintiff's failure to timely file a timely Amended Complaint will result in dismissal of this action without further notice.

SIGNED in Chambers at West Palm Beach, Florida, this 5 day of June, 2026.



Donald M. Middlebrooks
United States District Judge

cc.

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