UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of September, two thousand twenty-six.

PRESENT:

JOHN M. WALKER, JR.,
MICHAEL H. PARK,
Circuit Judges,
PHILIP M. HALPERN,
District Judge.[*]

Blanche O'Neal, Flying Mink, a tribal member of the Guale Yamassee Tribal Republic,

Plaintiff-Appellant,

v. **25-2741**

Letitia James, in her official and individual

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[*] Judge Philip M. Halpern, of the United States District Court for the Southern District of New York, sitting by designation.

capacity, 23A Vernon LLC, District Attorney Eric Gonzalez, in his official and individual capacity, Knickerbocker Title Company, d/b/a Knickerbocker Abstract Title Co., Stewart Knickerbocker, Colie Gallman, Jr., Colie Gallman, 23A Vernon Holdings LLC, Estate of Lillian Hudson, AKA John Doe, who is or was the administrator, Kim Grate, Executor, Personal Representative of the Estate of Lillian Hudson, Jay Markowitz,

Defendants-Appellees,

Supreme Court of the State of New York, County of Kings, Judge Edgar G. Walker, in his official and individual capacity,

Defendants.

FOR PLAINTIFF-APPELLANT:	Blanche O'Neal, pro se, Brooklyn, NY.
FOR DEFENDANT-APPELLEE LETITIA JAMES:	Danny Yao Li, Assistant Solicitor General (Barbara D. Underwood, Solicitor General, Matthew W. Grieco, Senior Assistant Solicitor General, *on the brief*) *for* Letitia James, Attorney General, State of New York, New York, NY.
FOR DEFENDANTS-APPELLEES 23A VERNON LLC AND JAY MARKOWITZ:	Jay Markowitz, Law Offices of Jay S.

	Markowitz, P.C., Williston Park, NY.
FOR DEFENDANT-APPELLEE STEWART KNICKERBOCKER:	Robert H. Brown (Amy Abbandondelo, *on the brief*) Sherwood & Truitt Law Group, LLC, Garden City, NY.
FOR DEFENDANTS-APPELLEES ERIC GONZALEZ, KNICKERBOCKER TITLE COMPANY, COLIE GALLMAN, JR., COLIE GALLMAN, 23A VERNON HOLDINGS, LLC, ESTATE OF LILLIAN HUDSON, PERSONAL REPRESENTATIVE OF THE ESTATE OF LILLIAN HUDSON, AND KIM GRATE:	No appearance.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Morrison, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED** as modified.

Appellant Blanche O'Neal, proceeding pro se, appeals the district court's dismissal of her lawsuit relating to two state court actions resolved in 2021. Those actions, one civil and one criminal, determined that O'Neal's deed to a property in Brooklyn was void and was the result of criminal fraud. In 2025, O'Neal attempted to remove the state civil

action to the "Royal Tribal Supreme Court" of the "Guale Yamassee Tribal Republic." She then sued in federal court, asserting violations of tribal sovereignty, violations of her due process and equal protection rights, and civil Racketeer Influenced and Corrupt Organizations Act ("RICO") claims in connection with the state proceedings. The district court *sua sponte* dismissed the complaint as frivolous, determining that the court lacked jurisdiction and that many of the defendants were immune from suit. *O'Neal v. Sup. Ct.*, No. 25-cv-3155, 2025 WL 2855376, at *2 (E.D.N.Y. Oct. 8, 2025). We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

We review *de novo* the dismissal of a complaint for lack of subject-matter jurisdiction. *See Digitel, Inc. v. MCI Worldcom, Inc.*, 239 F.3d 187, 190 (2d Cir. 2001). "[D]istrict courts may dismiss a frivolous complaint *sua sponte* even when the plaintiff has paid the required filing fee . . . ." *Fitzgerald v. First E. Seventh St. Tenants Corp.*, 221 F.3d 362, 364 (2d Cir. 2000). While we have not decided whether such dismissals are reviewed *de novo* or for abuse of discretion, it is not necessary to resolve that question when—as here—the decision withstands *de novo* review. *Id.* at 364 n.2. "[W]e are free to affirm on any ground that finds support in the record, even if it was not the ground upon which the trial court relied." *Carroll v. Trump*, 124 F.4th 140, 161 n.13 (2d Cir. 2024)

(citation omitted). Because O'Neal "has been *pro se* throughout, [her] pleadings and other filings are interpreted to raise the strongest claims they suggest." *Sharikov v. Philips Med. Sys. MR, Inc.*, 103 F.4th 159, 166 (2d Cir. 2024).

To the extent O'Neal sought an order granting her possession of the property and declaring the state court decision regarding the property's ownership to be void, the district court lacked subject-matter jurisdiction over her claims. The *Rooker-Feldman* doctrine, which "goes to subject matter jurisdiction," "bars a party losing in state court from seeking what in substance would be appellate review of the state judgment in a United States district court." *Hunter v. McMahon*, 75 F.4th 62, 66–67 (2d Cir. 2023) (cleaned up), *abrogated in part on other grounds by T.M. v. Univ. of Maryland Med. Sys. Corp.*, 608 U.S. __, 146 S. Ct. 1739 (2026). This Court has "articulated a four-part test," under which the doctrine "applies if (1) the federal-court plaintiff lost in state court; (2) the plaintiff complains of injuries caused by a state court judgment; (3) the plaintiff invites review and rejection of that judgment; and (4) the state judgment was rendered before the district court proceedings commenced." *Id.* at 68 (internal quotation marks omitted).

All four elements are satisfied as to O'Neal's claims for equitable relief against the civil judgment. She lost in a state court quiet-title action and complains of an injury caused by the judgment—*i.e.*, the loss of title to the property. The equitable relief she

seeks is control of the property, which would effectively require the district court to reverse the state court decisions. *Cf. Vossbrinck v. Accredited Home Lenders, Inc.*, 773 F.3d 423, 427 (2d Cir. 2014) (holding, on a claim predicated on alleged fraud in a foreclosure action, that the requested equitable relief related to title was barred by *Rooker-Feldman*). And the state judgment at issue was entered four years before this suit commenced, satisfying the last prong of the test.

O'Neal also seeks equitable relief declaring unconstitutional and otherwise reversing her criminal conviction. But she did not challenge the district court's dismissal of those claims in her opening brief, so she has abandoned the issue. *See Green v. Dep't of Educ.*, 16 F.4th 1070, 1074 (2d Cir. 2021). We thus decline to address it.

To the extent that O'Neal argues that the underlying civil and criminal judgments are void based on violations of tribal sovereignty, such assertions are without merit. The statutes O'Neal cites are irrelevant to the issues before us and do not undermine the validity of the state-court judgments.

As to the remaining claims for damages, the district court was correct that the claims against the state court and individual state defendants in their official capacities were barred by the Eleventh Amendment. "The ultimate guarantee of the Eleventh Amendment is that nonconsenting States may not be sued by private individuals in

federal court." *Bd. of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 363 (2001). This immunity extends to "state agents and state instrumentalities that are, effectively, arms of a state." *Gollomp v. Spitzer*, 568 F.3d 355, 366 (2d Cir. 2009). "Congress may abrogate the States' Eleventh Amendment immunity when it both unequivocally intends to do so and acts pursuant to a valid grant of constitutional authority." *Bd. of Trs. of Univ. of Ala.*, 531 U.S. at 363 (cleaned up). But as relevant here, § 1983 did not abrogate states' sovereign immunity, *see Dube v. State Univ. of N.Y.*, 900 F.2d 587, 594 (2d Cir. 1990), and New York has not consented to § 1983 suits in federal court, *see Trotman v. Palisades Interstate Park Comm'n*, 557 F.2d 35, 38–40 (2d Cir. 1977). The state court and individual state defendants sued in their official capacities are thus entitled to immunity from this suit. *See Gollomp*, 568 F.3d at 368 ("[T]he New York State Unified Court System is unquestionably an 'arm of the State' and is entitled to Eleventh Amendment sovereign immunity." (internal citation omitted)); *Rodriguez v. Weprin*, 116 F.3d 62, 66 (2d Cir. 1997) (holding that New York District Attorneys and Assistant District Attorneys are immune from suit in their official capacities under the Eleventh Amendment).

The state defendants are also immune in their individual capacities against claims for damages. O'Neal sued a judge, the state attorney general, and a prosecutor. "It is well settled that judges generally have absolute immunity from suits for money damages

for their judicial actions." *Bliven v. Hunt*, 579 F.3d 204, 209 (2d Cir. 2009). Here, O'Neal makes no plausible allegations that the actions of the judge were not judicial actions. Similarly, the other state defendants are protected by prosecutorial immunity. "[A]bsolute immunity will apply to a prosecutor's conduct that is intimately associated with the judicial phase of the criminal process, but not to a prosecutor's acts of investigation or administration." *Rodriguez*, 116 F.3d at 66 (cleaned up). Here, O'Neal's injuries stem from the defendants' choice to prosecute her, a prosecutorial decision for which they are immune.

O'Neal's remaining claims against the private defendants also fail. First, as non-state actors, they are not individually liable under § 1983. To invoke the cause of action that § 1983 provides, plaintiffs "must establish that they were deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed under color of state law." *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49–50 (1999). Generally, private actors are not proper § 1983 defendants because they do not act under color of state law. *See id.* at 50. O'Neal does not dispute that the remaining defendants are private actors: they do not work for the government and are instead four private companies, an attorney for one company, members of the family that had owned the property, and the estate of a prior owner. *See id.* at 52 ("Action taken by

private entities with mere approval or acquiescence of the State is not state action."); *Polk County v. Dodson*, 454 U.S. 312, 319 n.9 (1981) ("Although lawyers are generally licensed by the States, they are not officials of government by virtue of being lawyers." (internal quotation marks omitted)); *Stevens v. Frick*, 372 F.2d 378, 381 (2d Cir. 1967) (holding that a state "does not clothe persons who use its judicial processes with the authority of the state" for § 1983 purposes).

Second, O'Neal did not plausibly allege a conspiracy to deprive her of her rights. To state a conspiracy claim under RICO, § 1983, or § 1985, a plaintiff must establish that the parties acted in concert. *See Spear v. Town of W. Hartford*, 954 F.2d 63, 68 (2d Cir. 1992) (§ 1983); *Webb v. Goord*, 340 F.3d 105, 110 (2d Cir. 2003) (§ 1985); *Cofacredit, S.A. v. Windsor Plumbing Supply Co.*, 187 F.3d 229, 244 (2d Cir. 1999) (RICO). Here, O'Neal's assertion that these parties conspired to forge a deed and submit it to the New York Supreme Court was conclusory and did not plausibly allege a conspiracy or a "meeting of the minds." *Webb*, 340 F.3d at 111; *see also Ciambriello v. County of Nassau*, 292 F.3d 307, 324 (2d Cir. 2002) ("A merely conclusory allegation that a private entity acted in concert with a state actor does not suffice to state a § 1983 claim against the private entity."). For most of these private defendants, there are no specific allegations about their actions at all.

Finally, the district court erred in dismissing with prejudice claims over which it

lacked subject-matter jurisdiction. *See Green*, 16 F.4th at 1074 ("[D]ismissals for lack of subject matter jurisdiction must be without prejudice, rather than with prejudice." (cleaned up)). We may modify the judgment to correct that error and dismiss those claims without prejudice. *See United States v. Adams*, 955 F.3d 238, 250–51 (2d Cir. 2020) (recognizing this Court's authority to modify and affirm judgments under 28 U.S.C. § 2106).

We have considered O'Neal's remaining arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court as modified.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court