[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14088
Non-Argument Calendar

D.C. Docket No. 1:20-cv-00241-CG-N

AMANDA JOHNSON,

Plaintiff-Appellant,

versus

JEFF BROCK,
DAVID F. STEELE, SR.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Alabama

(July 19, 2021)

Before JORDAN, NEWSOM and MARCUS, Circuit Judges.

PER CURIAM:

Amanda Johnson, a private citizen proceeding pro se, appeals the district court's sua sponte dismissal of her civil complaint for lack of subject matter

jurisdiction based on the Rooker-Feldman[1] doctrine. On appeal, Johnson argues that: (1) her complaint was not barred by the Rooker-Feldman doctrine; (2) the district court had federal jurisdiction based on her constitutional claims for violations of the Fourteenth and Fifth Amendments and a violation of 28 U.S.C. § 1983; (3) the state court deprived her of her property during a hearing for which she was not given notice; and (4) there were various procedural defects in the handling of her federal case. After thorough review, we affirm.

Application of the Rooker-Feldman doctrine is a threshold jurisdictional matter. See Brown v. R.J. Reynolds Tobacco Co., 611 F.3d 1324, 1330 (11th Cir. 2010). We review de novo the district court's application of the Rooker-Feldman doctrine. Lozman v. City of Riviera Beach, Fla., 713 F.3d 1066, 1069 (11th Cir. 2013). However, we review a district court's findings of jurisdictional fact for clear error. Carmichael v. Kellogg, Brown & Root Services, Inc., 572 F.3d 1271, 1279-80 (11th Cir. 2009). In addition, the party asserting the claim bears the burden of establishing federal subject matter jurisdiction. Williams v. Poarch Band of Creek Indians, 839 F.3d 1312, 1314 (11th Cir. 2016).

Although pro se pleadings are liberally construed, issues not raised first in the district court are deemed waived. Tannenbaum v. United States, 148 F.3d 1262,

[1] The Rooker-Feldman doctrine derives from Rooker v. Fidelity Tr. Co., 263 U.S. 413 (1923), and District of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462 (1983).

1263 (11th Cir. 1998). A claim without supporting legal argument or only passing references to a claim also amount to waiving or abandoning that claim on appeal. Brown v. United States, 720 F.3d 1316, 1332-33 (11th Cir. 2013). Further, the leniency given to pro se litigants does not give a court license to serve as de facto counsel for a party, or to rewrite an otherwise deficient pleading to sustain an action. Campbell v. Air Jamaica Ltd., 760 F.3d 1165, 1168-69 (11th Cir. 2014).

Alone among the federal courts, only the Supreme Court may exercise appellate authority to reverse or modify a state-court judgment. Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284-85 (2005). Accordingly, under the Rooker-Feldman doctrine, federal district courts and courts of appeals lack jurisdiction to review final state-court judgments. Lozman, 713 F.3d at 1072. However, in delineating the boundaries of Rooker-Feldman, the Supreme Court has clarified that the doctrine is narrow in scope, and only applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." Exxon Mobil Corp., 544 U.S. at 284.

Although Rooker-Feldman is narrow in its application, "a state-court loser cannot avoid Rooker-Feldman's bar by cleverly cloaking her pleadings in the cloth of a different claim." May v. Morgan Cty. Ga., 878 F.3d 1001, 1005 (11th Cir. 2017). The doctrine applies "both to federal claims raised in the state court and to

those 'inextricably intertwined' with the state court's judgment." Casale v. Tillman, 558 F.3d 1258, 1260 (11th Cir. 2009). The doctrine does not apply, however, if a party did not have a "reasonable opportunity to raise his federal claim in state proceedings." Id. (quotation omitted). A claim brought in federal court is inextricably intertwined with a state court judgment if it would "effectively nullify" the state court judgment or if it "succeeds only to the extent that the state court wrongly decided the issues." Id. (quotation omitted).

In May, we found that a property owner's § 1983 claim -- brought in federal court -- that she had a grandfathered constitutional right to rent her vacation home on a short-term basis was inextricably intertwined with the as-applied challenge she had brought earlier in state court to the constitutionality of a county regulation barring her enjoyment of that right. 878 F.3d at 1005. We reasoned that both her federal and state cases relied on her claim that she had a grandfathered right to rent her property and both cases required finding that her claim of vested constitutional rights was not barred under local law. Id. We also noted that, as she had done in state court, she asked for declaratory relief and damages with her § 1983 claim. Id. at 1006. We concluded that May simply was bringing the same claims in federal court that she had brought, and lost, in state court and that she had taken advantage of a reasonable opportunity to raise her federal claims in the state proceedings. Id.

In contrast, in Target Media Partners v. Specialty Mktg. Corp., we held that the district court erroneously dismissed the plaintiffs' defamation claim on Rooker-Feldman grounds because the claim did not invite the review and rejection of the state-court judgment concerning breach-of-contract and fraud claims. 881 F.3d 1279, 1281 (11th Cir. 2018). We reasoned that the defamation claim and the breach-of-contract and fraud claims were not inextricably intertwined because the federal suit related to conduct occurring after the state court decision and the essence of the state suit was distinct from the federal suit. Id. at 1286-87. Specifically, we stated that the legal issues presented to the state court inquired about the parties' contractual obligations, while the legal issues presented to the federal court inquired into whether speech in a letter that postdated the state-court decision was defamatory. Id. We noted that though the factual background of the defamation claim did relate to the state court judgment, not merely "any" interconnection of state and federal suits constitutes an "inextricably intertwined" issue. Id. at 1287. We explained that "[i]t is not the factual background of a case but the judgment rendered -- that is, the legal and factual issues decided in the state court and at issue in federal court -- that must be under direct attack for Rooker-Feldman to bar our reconsideration." Id. Additionally, we found that the propriety of the allegedly defamatory speech was not and could not have been adjudicated in the state court and that it was an independent claim, not specifically addressed by the state court. Id. at 1288-89.

The pendency of an action in state court precludes application of Rooker-Feldman. Exxon Mobil Corp., 544 U.S. at 292. This means that Rooker-Feldman does not apply if the federal action was commenced before the end of state proceedings. Nicholson v. Shafe, 558 F.3d 1266, 1274 (11th Cir. 2009).

> [S]tate proceedings have "ended" [for Rooker-Feldman purposes] in three situations: (1) when the highest state court in which review is available has affirmed the judgment below and nothing is left to be resolved, (2) if the state action has reached a point where neither party seeks further action, and (3) if the state court proceedings have finally resolved all the federal questions in the litigation, but state law or purely factual questions (whether great or small) remain to be litigated.

Id. at 1275 (quotation omitted). In the second scenario, a state proceeding has ended if the losing party allows the time for appeal to expire. Id. Conversely, state proceedings have not ended for Rooker-Feldman purposes when the losing party "does not allow the time for appeal to expire (but instead, files an appeal)." Id. However, a litigant cannot escape application of Rooker-Feldman by merely electing not to appeal an adverse state-court judgment. Id. at 1276.

Under the Georgia Court of Appeals Rules, an application for discretionary appeal must generally be filed with the Georgia Court of Appeals within 30 days of the date of the entry of the trial court's order being appealed. Ga. Ct. App. R. 31(a). No extensions of time are granted to file a discretionary application unless a motion for extension is filed on or before the application due date. Ga. Ct. App. R. 31(i).

Federal Rule of Civil Procedure 15(a) provides that "[a] party may amend its pleading once as a matter of course" within 21 days after serving it, or after the earlier of service of any responsive pleading or service of a rule 12(b) motion, but in all other cases a party may amend its pleading only by leave of the court or by written consent of the adverse party. Fed. R. Civ. P. 15(a)(1), (a)(2). The district court "should freely give leave when justice so requires." Id.

Here, Johnson's federal complaint generally alleges that she suffered injuries caused by a state-court judgment depriving her of property she expected to inherit. She brings claims against the judge in the earlier state-court proceeding, alleging that he had worked together with opposing counsel to nullify her property rights and oust her from her property.

The district court properly dismissed Johnson's complaint for lack of jurisdiction under the Rooker-Feldman doctrine. For starters, Johnson commenced the federal action after the state-court action had ended. Johnson admits that the state court issued its dispositive order in 1998. Her federal suit was filed approximately 20 years later in 2020. This means that the 30-day time limit to appeal the state-court judgment had expired, ending the state proceeding for Rooker-Feldman purposes. Ga. Ct. App. R. 31(a); Nicholson, 558 F.3d at 1275.

Further, Johnson's federal claims are inextricably intertwined with the state-court judgment. Casale, 558 F.3d at 1260. Johnson claims that the state-court judge

and opposing counsel deprived her of her "inherited birthright property" without due process of law, committed fraud, and violated her "rights to the 5th amendment of the Constitution." She adds that she was subject to the same trial twice and intentional torts were committed against her. Thus, the essence of Johnson's claims is her ownership rights to the property -- the very issue decided by the state court -- and her success on any of the alleged federal claims would undoubtedly nullify the state-court's order depriving her of the property. Indeed, Johnson's prayer for relief, requesting the return of her property and $100 million dollars as compensation for deprivation of its use, directly invites the district court to review and reject the state court's final judgment. Likewise, when she objected to the magistrate judge's report and recommendation, she "s[ought] the [d]istrict [c]ourt's indulgence on providing leeway for rebooting her case in federal court," and her notice of appeal challenging a "theft of the property" and requesting injunctive relief shows that her claims are based on the belief that the state court's ruling was wrong and directly asks for a review of its decision. See May, 878 F.3d at 1006.

Moreover, Johnson has offered nothing to suggest that she was precluded her from raising her federal claims in state court or from appealing the adverse state-court decision. Thus, the record indicates that she had a reasonable opportunity to raise her federal claims in the state proceedings. For these reasons, Johnson's allegations are inextricably intertwined with the underlying state-court dispute

depriving her of the property, and the district court did not err in dismissing Johnson's complaint for lack of jurisdiction under the Rooker-Feldman doctrine.

Nor can we say that the district court's dismissal was improper due to any alleged failure by the magistrate judge to liberally construe her filings. Although a document filed pro se is to be liberally construed, this leniency does not require or even give a court license to serve as de facto counsel or rewrite an otherwise deficient pleading. Campbell, 760 F.3d at 1168-69. Here, Johnson's filings were difficult to construe and contained general references and conclusory assertions of claims and causes of actions, without more. Johnson also failed to allege any clear ground for jurisdiction. These issues were not for the court to correct to sustain a basis for review -- that burden rested on Johnson. Id.; Williams, 839 F.3d at 1314.

Finally, the record does not support Johnson's claims that the magistrate judge did not give her sufficient time or opportunity to file amended pleadings. Rather, the magistrate judge gave Johnson 21 days to correct the defects in her complaint, including jurisdiction. And, according to the record, Johnson filed her amended complaint within the 21-day deadline. Moreover, Johnson still has failed to articulate how any other proposed amendments to her pleadings might have resolved the jurisdictional defect. Accordingly, we affirm.[2]

[2] We add that to the extent Johnson claims that the defendants violated her Fourteenth Amendment rights, § 1983, and the professional code of conduct, these claims are also barred because they were not filed with the district court and are raised for the first time on appeal.

AFFIRMED.

Tannenbaum, 148 F.3d at 1263. Likewise, to the extent Johnson claims that the Chief Deputy Clerk mistreated her, she fails to provide any supporting legal argument or citation of authority, which amounts to waiver of that claim on appeal. Brown, 720 F.3d at 1332-33.