[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-10755
Non-Argument Calendar

D.C. Docket No. 1:18-cv-25137-UU

RONALD SILIAKUS,

Plaintiff - Appellee,

versus

CARNIVAL CORPORATION,
d.b.a. Carnival Cruise Lines,

Defendant - Appellant.

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

(August 4, 2020)

Before WILSON, LAGOA and MARCUS, Circuit Judges.

PER CURIAM:

Plaintiff Ronald Siliakus slipped and fell on wet stairs while on board a cruise ship, suffering a severe injury. He sued Carnival Corporation ("Carnival") in both state and federal court, bringing a common law claim of negligence under Florida

law. However, in his federal complaint, Siliakus affirmatively requested that his case be dismissed, arguing that the district court lacked admiralty jurisdiction. In so doing, Siliakus hoped to avoid the forum-selection clause that he agreed to in his contract with Carnival, which mandates that suits are to be litigated in federal court unless there is a want of subject-matter jurisdiction. The district court agreed it lacked admiralty jurisdiction, could not locate any other source of federal subject-matter jurisdiction, and dismissed the case without prejudice. But since the district court issued its decision, our Court squarely ruled out this method of forum shopping in a case nearly identical to this one. See DeRoy v. Carnival Corp., 963 F.3d 1302 (11th Cir. 2020). Thus, after thorough review, we reverse the district court's dismissal for lack of subject-matter jurisdiction and remand for further proceedings.

"We review de novo the grant of a motion to dismiss for lack of subject-matter jurisdiction. In reviewing a facial challenge to a complaint, we consider only the allegations in the complaint, accepting them as true for this purpose." Id. at 1309 (citations omitted). In evaluating subject-matter jurisdiction, "it is the facts and substance of the claims alleged, not the jurisdictional labels attached, that ultimately determine whether a court can hear a claim." Id. at 1311. Under our prior panel precedent rule, we are bound by earlier panel holdings unless and until they are overruled by this Court en banc or by the Supreme Court. See United States v. Smith, 122 F.3d 1355, 1359 (11th Cir. 1997) (per curiam); see also Main Drug, Inc.

v. Aetna U.S. Healthcare, Inc., 475 F.3d 1228, 1231 (11th Cir. 2007) ("If jurisdictional holdings are explicit they must be followed.").

The relevant facts are these. Siliakus embarked on a multi-day Carnival cruise in November 2017. On November 5, 2017, Siliakus slipped on wet steps on board the vessel, falling and severely injuring himself in the process. Siliakus argued that Carnival was negligent in allowing this condition to exist on its ship; that is, he claimed that Carnival knew or should have known of the dangerous condition of the stairs, that Carnival owed him a duty of reasonable care, and that Carnival breached that duty. However, pursuant to the contract that Siliakus signed with Carnival when he purchased his ticket, claims against the cruise liner must be "litigated, if at all, before the United States District Court for the Southern District of Florida in Miami or as to those lawsuits to which the Federal Courts of the United States lack subject matter jurisdiction, before a court located in Miami-Dade County, Florida."

Siliakus, apparently preferring to resolve his claim in state court, zeroed in on the language in the clause that allowed a state court to hear his claim if a federal court lacked subject-matter jurisdiction to do so. To that end, Siliakus filed two complaints: one in Florida state court, and one with the United States District Court for the Southern District of Florida. His federal claim, however, affirmatively argued that the district court lacked subject-matter jurisdiction, because he brought his action "at law for damages," suing Carnival "in personam for its negligence."

Thus, he claimed that there was no federal admiralty jurisdiction, nor any other source of federal subject-matter jurisdiction. The crux of Siliakus' argument comes down to statutory language within 28 U.S.C. §1333, which grants federal courts original jurisdiction over "[a]ny civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled." 28 U.S.C. § 1333(1) (emphases added). "Other remedies," the argument goes, would include the right to bring a common law claim for damages at law in state court.

The district court agreed with Siliakus, relying heavily on a similar, recently decided district court case, DeRoy v. Carnival Corp., No. 1:18-CV-20653-UU, 2018 WL 2316643 (S.D. Fla. May 22, 2018) (citation omitted), rev'd, 963 F.3d 1302. There, the district court had held that the saving-to-suitors clause in §1333 "permits a plaintiff to proceed 'at law,' (for example, in tort or contract) rather than in admiralty," and bringing the case at law "exempts state common law remedies from exclusive federal admiralty jurisdiction." 2018 WL 2316643, at *4. Similarly here, because Siliakus raised a state common law claim of negligence, and because he affirmatively chose to bring this claim at law and in personam, the district court concluded there was no admiralty jurisdiction. Finding no other source of federal subject-matter jurisdiction, it dismissed Siliakus' action.

However, as we've noted, the district court's decision in DeRoy was subsequently reversed and remanded by a panel of this Court. 963 F.3d 1302. In

DeRoy, we declined to accept the jurisdictional label used by the plaintiff in her pleading. Rather, we held that Fed. R. Civ. P. 9(h) provides that a claim cognizable "only in the admiralty or maritime jurisdiction is an admiralty or maritime claim for those purposes, whether or not so designated." Id. at 1312 (citing Fed. R. Civ. P. 9(h)(1)). Noting that DeRoy "voluntarily filed in federal court and alleged sufficient facts to satisfy admiralty jurisdiction," we clarified that under Rule 9(h), there was no need to defer to DeRoy's own categorization of her claim. Id. at 1314 (emphasis added). The plain text of Rule 9 made it is irrelevant that DeRoy formally designated her claim as being at law; rather, because she filed in federal court, and because the facts alleged within her complaint established admiralty jurisdiction, the district court possessed subject-matter jurisdiction over the case. Id. As we explained:

> Although Rule 9(h) allows a plaintiff in a maritime case to choose whether to proceed at law or in admiralty, that choice is available only if there is a choice to be made -- that is, if the plaintiff has a separate basis for subject-matter jurisdiction other than admiralty. But when admiralty is the only basis for jurisdiction, then admiralty jurisdiction applies, regardless of how the plaintiff designates her case.

Id. at 1312.

So too here. Just like in DeRoy, it makes no difference that Siliakus classified his claims as being brought at law and in personam. By filing in federal court, and by alleging facts that establish admiralty jurisdiction, Siliakus triggered that type of jurisdiction -- regardless of whatever jurisdictional labels he chose to use. And since

no other avenue for federal jurisdiction exists, "admiralty jurisdiction applies, regardless of how the plaintiff designates [his] case." Id.

Indeed, in the district court's own words, this case is "virtually identical" to DeRoy. Nor can we identify any ground on which to distinguish the two cases. The facts are substantially similar; there, DeRoy tripped on an uneven carpet; here, Siliakus slipped and fell on wet stairs. Slipping on wet stairs while on board a vessel is just as "connected with maritime activity" and is sufficient to allow for admiralty jurisdiction. See id. (citing Caron v. NCL (Bahamas), Ltd., 910 F.3d 1359, 1365 (11th Cir. 2018) ("Tort claims are within admiralty jurisdiction if (1) the incident occurred on navigable water, or the injury was caused by a vessel on navigable water, and (2) the incident is connected with maritime activity.")). Moreover, the legal issue is identical in the two cases -- both plaintiffs used the same language in their attempt to avoid admiralty jurisdiction. And the district courts applied the same legal analysis -- now disapproved of by our Court -- to evaluate each claim. Thus, under our decision in DeRoy, the district court has admiralty jurisdiction over Siliakus' claim, regardless of how he classified it.

Because the argument relied upon by the district court in this case is squarely foreclosed by our intervening decision in DeRoy, we reverse the order of dismissal

for lack of subject-matter jurisdiction and remand for further proceedings consistent with this opinion. See Smith, 122 F.3d at 1359; Main Drug, Inc., 475 F.3d at 1231.[1]

REVERSED and REMANDED.

[1] Siliakus' alternative arguments are similarly unpersuasive and foreclosed by DeRoy. He says that the forum-selection clause does not mandate a federal forum in this case, because "[t]he claims made in Siliakus' lawsuit do not invoke federal subject matter jurisdiction." But as our Court explained in DeRoy, these claims do in fact invoke admiralty jurisdiction, and, thus, federal subject-matter jurisdiction. 963 F.3d at 1314. As for his saving-to-suitors arguments, "the saving-to-suitors clause is not even arguably relevant to the analysis, since [Siliakus] filed in federal court and Carnival has agreed to a jury trial." Id.