

No.

**IN THE SUPREME COURT OF THE
UNITED STATES**

PETITIONER Adrian Gilliard

vs.

RESPONDENT(S) COURTNEY

LUMME,

ON PETITION FOR A WRIT OF CERTIORARI TO The

United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

Adrian Gilliard

P O Box 702 Groesbeck,Tx 76642,

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[*] All parties do not appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows

DFPS INVESTIGATOR, JEAN LONG, DFPS SUPERVISOR, KEITH
DOWNS, DFPS ATTORNEY, LESLIE WALLRATH, ATTORNEY AD
LITEM, CHRISTINA FULLER, LESLIE SIMS, CHRIS SKINNER,
BRANDY BAKER, CEANNE SPENCE, & CHRISTI GATLIN, Appellees

Meredith Prykryl Walker Walsh Gallegos Trevino Russo & Kyle P.C.

105 Decker Court
Suite 600

TX 75002

214/574-8800

Fax: 214/574-8801

Email: mwalker@wabsa.com

LEAD ATTORNEY

Morgan Paige Beam

Walsh Gallegos Trevino Russo and Kyle PC

10375 Richmond Avenue

Suite 1357

Houston, TX 77042

713-789-6864

Fax: 713-789-9318

Email: mbeam@wabsa.com

Leslie Wallrath P Box 924 Centerville, TX 75833 PRO SE

John Daniel Coolidge Office of the Attorney General General
Litigation Division P. O. Box 12548 – Capitol Station Austin,
Texas 78711-2548 daniel.coolidge@oag.texas.g

Question(s) Presented

In a suit affecting parent child Relation

1. To define Rooker-Feldman doctrine as barring action against Texas Department of family protective service workers and appointed attorneys along with Teague ISDI workers and officials, in federal court for administrative orders and actions not addressed in a state court case or in state appeal.
2. The application of Rooker-Feldman doctrine in relation to addressing defendants actions prior to judgment not the judgment. Whether it will bar action in federal court against Texas department of family protective services for drug screens, kinship program, conservatorship family base services and investigation if not addressed in state court case or state appeals.
3. Will Rooker-Feldman doctrine barring action in federal court against Texas department of family protective services for ADA rehabilitation Act violations not addressed in state court or state appeals court,

Related cases

United States court of Appeals Fifth circuit No. 21-50339 Summary
Calendar Appellant fails to present any non-frivolous arguments on appeal.

The judgment is AFFIRMED. See 5th Cir. R. 47.6.

Western District of Texas (Waco) CIVIL DOCKET FOR CASE #:

6:20-cv-00278-ADA-JC Plaintiffs Complaint be DISMISSED WITHOUT
PREJUDICE for lack of subject matter jurisdiction Rooker-Feldman invoked
03/31/2021

In re C.G. and R.G., No. 10-19-00306-CV, 2019 WL 6464977 (Tex.

App.—Waco Nov. 27, 2019, pet. filed) (mem. op.) (before Gray, C.J.,

Davis, J., and Neill, J.) Court of Appeals' Disposition The Tenth

Court of Appeals affirmed the trial court’s judgment below.

In the 87th district court Jury trial was held on Aug. 19, 2019. The jury terminated the parental rights of both parents. Both parents timely filed appeals.

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TABLE OF AUTHORITIES CITED

CASES

178 State immunity

.A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

§ 35.101 Purpose and broad coverage.

(a) *Purpose.* The purpose of this part is to **implement** subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S. C. 12131–12134), as **amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Public Law 110–325, 122 Stat. 3553 (2008))**, which prohibits discrimination on the basis of disability by public entities. Pg 5

In re Smith (1991), 77 Ohio App.3d 1, 16, 601 N.E.2d 45, 54.

Rooker-Feldman doctrine 283-84 (2005). “has no application to judicial review of executive action, including determinations made by a state administrative agency pg 6,7,8,9,10

6298 GREENE v. CAMRE pg.4,5,6.

*ExxonMobil filed suit in federal district court “well before any judgment in state court.”*¹¹⁶ Thus, the Rooker-Feldman doctrine “did not emerge to vanquish jurisdiction after ExxonMobil prevailed in the Delaware courts See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.* 544 U.pgS. 280, pg 5 Noel v. Hall, 341 F.3d 1148, 1163 (9th Cir. 2003) (“[W]here the federal plaintiff does not complain of a legal injury caused by a state court judgment, but rather of a legal injury caused by an adverse party, RookerFeldman does not bar jurisdiction.”).pg 4 Van Harken v. City of Chicago pg. 5

Rooker-Feldman does not bar district court from subject matter JURISDICTION over administrative duties. Pg 5

TIMOTHY E. VUYANICH; CAROL L. VUYANICH, Appellants v.
SMITHTON BOROUGH; CLASSROOM DIRECT.COM, LLC,
Plaintiff, v. DRAPHIX, LLC, Defendant. CIVIL ACTION NO.
06-AR-1669-S

Van Harken v. City of Chicago pg. 4

West v Atkins pg 6

White v. Gee, Case No. 8:19-cv-0003-T-02CPT (M.D. Fla.
Jun. 13 , 2019)

To determine whether a claim invites rejection of a state court decision, courts must consider whether a claim was either actually adjudicated by a state court or is "inextricably intertwined" with a state court judgment. *Target Media Partners*, 881 F.3d at 1286 (citation omitted). A claim is "inextricably intertwined" with a state court judgment if it asks to "effectively nullify the state court judgment, or it succeeds only to the extent that the state court wrongly decided the issues." *Id.* a federal claim is not "inextricably intertwined"

with a state court judgment when there was no "reasonable opportunity to raise" that claim during the relevant state court proceeding. *White v. Gee*, Case No.

8:19-cv-0003-T-02CPT (M.D. Fla. Jun. 13, 2019) pg 9

The district courts shall have original jurisdiction of any civil action commenced by any person to recover damages for any injury to his person or property on account of any act done by him, under any Act of Congress, for the protection or collection of any of the revenues, or to enforce the right of citizens of the United States to vote in any State.

(June 25, 1948, ch. 646, 62 Stat. 934.)

STATUTES AND RULES

28 U.S. Code § 1357. Injuries under Federal laws

18 U.S.C. § 371 Injuries under Federal laws

18 U.S. Code § 1621 - Perjury generally

OTHER

OPINIONS BELOW

[*] For cases from federal courts: The opinion of the United States court of

appeals appears at Appendix A to the petition and is

reported at ; or

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the United States district court appears at Appendix to the petition and is B

reported at ; or, has been designated for publication but is not yet reported; or, is unpublished.

For cases from state courts: The opinion of the highest state court to review the merits appears at Appendix to the petition and is C reported at ; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the court appears at Appendix to the petition and is D

reported at ; or,

has been designated for publication but is not yet reported; or

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was

.11/10/2021

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of

Appeals on the following date: , and a copy of the order denying rehearing

appears at Appendix .

An extension of time to file the petition for a writ of certiorari was

granted to and including (date) on (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from state courts:

The date on which the highest state court decided my case was .

A copy of that decision appears at Appendix .

A timely petition for rehearing was thereafter denied on the following date: ,

and a copy of the order denying rehearing appears at Appendix .

An extension of time to file the petition for a writ of certiorari was granted to and including (date) on

(date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a)

Due Process, Fundamental right to raise children, Consent to enter, Search and seizure, ADA rehabilitation act,

Permanent termination of parental rights has been described as

“the family law equivalent of the death penalty in a criminal case.”

In re Smith (1991), 77 Ohio App.3d 1, 16, 601 N.E.2d 45, 54.

Therefore, parents “must be afforded every procedural and substantive protection the law allows.” Id. With this in mind, we turn to the construction of the former R.C. 2151.413(A).

Statement of the Case

In this case, the District Court dismissed plaintiffs’ complaint without prejudice and Rooker-Feldman was invoked. The 5th Appeals court said the Appellant fails to present any non-frivolous arguments on appeal. The judgment is AFFIRMED. See 5th Cir. R. 47.6. And the Supreme court opinion on Rooker-Feldman doctrine is different from both. State courts failed to address constitutional rights violations, My fundamental right to raise my children Due Process, Consent to enter by social worker, ADA rehabilitation Act ,search and seizure violations. TxDFPS received the judgment by fraud by submitting fake documents, perjury that state court allowed, this is an administrative agency and throughout the nine month

period these violations transpired in family team meetings, service plan meetings, conservatorship proceedings, trial, appeal Rooker-Feldman does not bar actions by defendants in these venues. The third self absorbed appointed

attorney(recently resigned his judgeship due to DWI) did not address.Court appointed attorney at appeals did not submit any of the violations at that level either.A TxDFPS case priority 2 should have been closed within 30 days, and never been filed in 87th.With U.S and Texas Constitutional violations along with Texas penal code violations and ADA violations. Although in 2015,2016,2017 attempted to remove my children the same way, except for Constitutional violations, ADA violations,altered documents,perjury, unsuccessfully.But no one can see TxDFPS for four years in a row three years unsuccessfully tried to remove my children is a problem in itself. Appeals attorney filling a Anders Brief was erroneously a ethics Violation at least.Trial court committed an error when allowing a 34 day old drug screen to be admitted as evidence, that social worker testified she took home my drug screen for more than 72 hours then mailed. The 87th court committed an error when it allowed Kieth Downs to refer the case to be filed in court ,and under Chapter 161 - Termination Of The Parent-Child Relationship.Also both Judges (87th 77th) were acting for presiding judges with no order reflecting that fact.The case was a priority 2 investigation, all TxDFPS priority 2 investigations are to be closed out within 30 days of the state intake call provided there is no extension.No extension was applied to this case..In a priority 2 investigation in TxDFPS history has a 30 day old drug screen been used to emergency or remove children from home,as such in this case.(No extension applied)(Drug screen taken home by social

worker for 72 hrs before mailing violation of federal and state drug testing procedure). Teague elementary school aided TxDFPS illegal removal of children by turning over the children to TxDFPS without a warrant, and absent of extrigent circumstances without consent of parents, as Texas family code law states, along with Texas education code.

08/13/2018-09/17/2018 34 days the children were still in home under PCP, TxDFPS lacked the criteria for emergency removal, nor were any extrigent circumstances involved, the primary of intake is removed from home. Lumme also on 09/17/2018 Lumme along with Long and Downs knowledge misled the court 87th also the 77th when went to the 77th for protection and temporary custody of CCG and REG, when appellant was told by TxDFPS it was safety plan to placed with Morgan but it was an emergency removal. Drug screen was altered to project positive for drug use. The plaintiff is disabled and should have been referred to the ADA coordinator for assessment and accommodation.

With the exception of Walrath asking Michelle Gilliard did the social worker push her to enter the apartment (mocking) was the extent of addressing issues of violations. The defendants willfully and knowingly violated plaintiffs constitutional rights with malice and conspiracy from intake call at TxDFPS to submission at Texas court of appeals. The first of the violations Knocking on my door because of anonymous call, entering my home without

consent, illegally removed children from their school without warrant are extrigent circumstances, preparing and submitting fake and false documents to family meetings, proceeding such as family service plan meetings, pharmacy meetings, conservatorship meetings, trial, appeal.

Reasons for Granting the Petition

In this case there is a conflict between the lower district courts application of the narrowness of invoking Rooker-Feldman doctrine, and Conflicts with the US Appeals and the lower district court application of Rooker-Feldman doctrine. Seventh Circuit has reasoned, "a claim is not 'inextricably intertwined' merely because it could have been raised, but was not, in the earlier state proceeding."⁴ The Sixth Circuit has described Rooker-Feldman as "a combination of the abstention and res judicata doctrines,"⁵ and the Eighth Circuit has claimed that Rooker-Feldman and preclusion are "extremely similar." Meanwhile, one court in the Southern District of New York apparently has followed the approach of the Seventh Circuit by distinguishing Rooker-Feldman from preclusion and asking, like Justice MarD.C. Court of Appeals v. Feldman, 460 U.S. 462, 487-88 (1983). Pennzoil Co. v. Texaco Inc., 481 U.S. 1, 25 (1987) (Marshall, J., concurring in judgment). Justice Marshall focused not on whether the federal claims actually had been raised or litigated in the state court proceeding but instead

on whether "the federal claim succeeds only to the extent that the state court wrongly decided the issues before it." *Id.* See *supra* notes 45-46 and accompanying text (noting that the Court in *Rooker* treated the *Rookers'* constitutional claims as though they had been raised in state court even though they had not). *Centers, Inc. v. Town of Brookfield, Wis.*, 148 F.3d 699, 703 (7th Cir. 1998). *Ritter v. Ross*, 992 F.2d 750, 754 (7th Cir. 1993). The Seventh Circuit correctly reasoned that: [i]f the opposite were true, the Court would not have allowed the litigants in *Feldman* to bring their general constitutional challenges to the bar admission rule in federal district court. This conclusion is further buttressed by *Pennzoil* where separate concurrences by a majority of the Court indicated *Rooker-Feldman* would not automatically bar a federal claim that was not raised in the state court. *Id.* *U.S. v. Owens*, 54 F.3d 271, 274 (6th Cir. 1995). *yo., Charchenko v. City of Stillwater*, 47 F.3d 981, 983 n.1 (8th Cir. 1995). 2001] 1571 1572 UNIVERSITY OF PENNSYLVANIA LAW REVIEW [Vol. 149:1555 shall in *Pennzoil*, "whether the federal district court would necessarily have to determine that the state court erred in order to find that the federal claims have merit. *Reasons for Granting the Petition* The Fourth Circuit responded by acknowledging the phrase "inextricably intertwined" arose from *Feldman*, but held that it does not create an additional legal test for determining whether the doctrine applies. Instead, it states the conclusion

that if the federal claim seeks redress for injury caused by the state court decision, the federal claim is by definition “inextricably intertwined” with the state court decision and thereby outside federal jurisdiction. In this case United States District Court for the Western District of Texas DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction invoked Rooker-Feldman doctrine, then the 5th court of appeals said Appellant fails to present any non-frivolous arguments on appeal”. The judgment is AFFIRMED without opinion, The decision, Which is in conflict with the district and supreme court. Along with the ineffective state court judicial and procedural jurisdiction of the case. Only the U S Supreme Court Can Resolve the issue Three different opinions on one complaint.

CONCLUSION

The petition for a writ of certiorari should be granted

. Respectfully submitted

/s/ Adrian, Gilliard

Date

No.

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 21-50339 Summary Calendar

Adrian Cotterll Gilliard, Plaintiff—Appellant,

versus

Courtney Lumme, DFPS Investigator; Jean Long, DFPS Supervisor; Keith
Downs, DFPS Attorney; Leslie Wallrath, Attorney Ad Litem; Christina
Fuller; Leslie Sims; Chris Skinner; Brandy Baker; Ceanne Spence; Christi

appeals appears at Appendix A to the petition and is

reported at ; or

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the United States district court appears at Appendix to the petition and is B

reported at ; or, has been designated for publication but is not yet reported; or, is unpublished.

For cases from state courts: The opinion of the highest state court to review the merits appears at Appendix to the petition and is C reported at ; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the court appears at Appendix to the petition and is D

Gatlin, Defendants—Appellees.

Appeal from the United States District Court for the Western District of
Texas USDC No. 6:20-CV-278

Before Clement, Ho, and Oldham, Circuit Judges. Per Curiam:* *

Pursuant to 5th Circuit Rule 47.5,

The court has determined that this opinion should not be published and is not
precedent except under the limited circumstances set forth in 5th Circuit
Rule 47.5.4.

United States Court of Appeals Fifth Circuit FILED November 10, 2021

Lyle W. Cayce Clerk

Appellant fails to present any non-frivolous arguments on appeal. The
judgment is AFFIRMED. See 5th Cir. R. 47.6

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 10, 2021

Lyle W. Cayce
Clerk

No. 21-50339
Summary Calendar

ADRIAN COTTERLL GILLIARD,

Plaintiff—Appellant,

versus

COURTNEY LUMME, DFPS INVESTIGATOR; JEAN LONG, DFPS
SUPERVISOR; KEITH DOWNS, DFPS ATTORNEY; LESLIE
WALLRATH, ATTORNEY AD LITEM; CHRISTINA FULLER; LESLIE
SIMS; CHRIS SKINNER; BRANDY BAKER; CEANNE SPENCE;
CHRISTI GATLIN,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:20-CV-278

Before CLEMENT, HO, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50339

Appellant fails to present any non-frivolous arguments on appeal. The judgment is AFFIRMED. *See* 5TH CIR. R. 47.6.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

November 10, 2021

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 21-50339 Gilliard v. Lumme
USDC No. 6:20-CV-278

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and 5th Cir. R. 35, 39, and 41 govern costs, rehearings, and mandates. **5th Cir. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 and 5th Cir. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. 5th Cir. R. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "Nancy F. Dolly".

By: _____
Nancy F. Dolly, Deputy Clerk

Enclosure(s)

Ms. Morgan Beam
Mr. John Daniel Coolidge
Mr. Adrian Cotterll Gilliard
Ms. Meredith Prykryl Walker
Ms. Leslie Wallrath

APPENDIX B

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

WACO DIVISION

ADRIAN GILLIARD

Plaintiff,

v.

COURTNEY LUMME, et. al., Defendant.

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6:20-CV-278-ADA-JCM

ORDER ADOPTING MAGISTRATE

JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge

Jeffrey C. Mankse. ECF No. 48. The Report recommends that Plaintiff's Motion to Amend

Complaint be denied and that Plaintiff's Complaint be dismissed without prejudice for lack of

subject matter jurisdiction. Additionally, the Report recommends that any remaining Motions

pending in this matter be denied as moot. The Report and Recommendation was filed on March 1, 2021.

A party may file specific, written objections to the proposed findings and

recommendations of the magistrate judge within fourteen days after being served with a copy of

the report and recommendation, thereby securing de novo review by the district court. 28 U.S.C.

§ 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or

general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting

Nettles v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en

banc), overruled on other grounds by *Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)). Plaintiff filed objections on March 15, 2021. ECF No. 49. The Court has conducted a de novo review of the motions in question, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough

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Page 1 of 2

review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Manske, ECF No. 48 is ADOPTED. IT IS FURTHER ORDERED that Defendant's objections are OVERRULED. IT IS FURTHER ORDERED that that Defendants Lumme and Downs's Motion to Dismiss and Defendants Gatlin, Spence, and Baker's Motion to

Dismiss be GRANTED IN

PART as to the Rooker-Feldman ground therein. As a result, the
Court ORDERS that Plaintiff's

Complaint be DISMISSED WITHOUT PREJUDICE for lack
of subject matter jurisdiction.

The Court also DENIES IN PART AS MOOT the remaining
grounds in Defendants Lumme
and Downs's Motion to Dismiss and Defendants Gatlin,
Spence, and Baker's Motion to Dismiss.

Further, the Court DENIES AS MOOT all remaining Motions
to Dismiss.

The Court also DENIES Plaintiff's Motion to Amend as futile.
Finally, the Court

DENIES AS MOOT all remaining Motions in this matter.

SIGNED this 31st day of March, 2021.

ALAN D ALBRIGHT

UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**