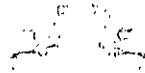


Appendix A

The Mann Act: District Court's Failure to Focus on the Issue



Appendix A contain the final decision of the United States District Court, Southern District of Georgia. The one-party decision was made without judicial independence, without affording the parents counsel, a jury trial of their peers, without adjudicating the facts and without allowing the parents, and Filipino family a fair, just, and equitable opportunity to present the case of how Julia Butler and the State of Georgia and Ohio conspired together to inveigle their child from her home and induce her into immoral practices across state lines.

United States District Court
Southern District of Georgia

JUDITH YIGAL, and OMRI YIGAL,

Plaintiff,

JUDGMENT IN A CIVIL CASE

v.

CASE NUMBER: 4:21-cv-230

JULIA A. BUTLER, et al.,

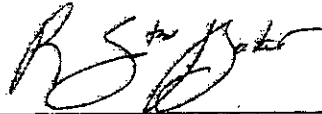
Defendants.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that, pursuant to the Order dated March 21, 2022, the Magistrate Judge's Report and Recommendation is adopted as the Court's opinion. Therefore, the Plaintiffs' pleading, doc. 1, is dismissed. Additionally, Plaintiffs' Motion to Transfer Case is denied and all pending motions are dismissed as moot. This action stands closed.

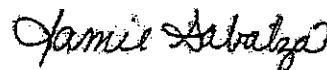
Approved by: _____



March 25, 2022
Date



John E. Triplett, Clerk of Court
Clerk



(By) Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JUDITH YIGAL, and OMRI YIGAL,

Plaintiffs,

v.

JULIA A. BUTLER, et al.,

Defendants.

CIVIL ACTION NO.: 4:21-cv-230

ORDER

Before the Court is the Magistrate Judge's Report and Recommendation recommending that *pro se* plaintiffs Judith and Omri Yigal's case be dismissed for lack of jurisdiction. (Doc. 23.) On the same day the Magistrate Judge entered the Report and Recommendation, the Yigals filed a document captioned "Interlocutory Appeal and Motion for Extraordinary Relief." (Doc. 24.) That document does not address, in any way, the substance of the Magistrate Judge's analysis or recommendation. Approximately two weeks after the deadline to submit objections to the Report and Recommendation, the Yigals filed a motion requesting that this case be "transferred" to the Honorable J. Randall Hall for disposition. (Doc. 25.) That document does address the Magistrate Judge's Report and Recommendation. (See *id.*) The Court will, therefore, discuss its contentions below. Finally, the Yigals have also filed a formal objection to the Report and Recommendation. (Doc. 26.)

The Magistrate Judge's recommendation originated in a prior Order directing the Yigals to show cause why this case was not redundant of another case they have pending in this Court. (See doc. 15.) That Order noted that the pleadings in this case "involve[] nearly identical claims, facts,

and defendants” as another case pending in this Court. (Id. (citing Yigal v. Cole, 4:21-cv-079 (S.D. Ga. Jan. 16, 2021)). The Magistrate Judge directed the Yigals that they could request consolidation of that case with any novel claims asserted in this case. (Id.) The Yigals responded to that Order, albeit out-of-time, and stated that the reason for the similarity in the cases was that, although the facts “appear similar” and the defendants “are essentially the same,” the “Cause of Action [in this case] is different.” (Doc. 21 at 1.) Their response states expressly that “the cause of action [in this case] is custody, and in [4:21-cv-079], the cause of action is damages for violations of civil rights and deprivation of rights under the color of law.” (Id.) The Magistrate Judge, crediting and quoting the Yigals’ response, analyzed whether there was any basis for this Court to exercise jurisdiction over a “custody” dispute. (See doc. 23 at 2-5.) He concluded that there was not, and recommended dismissal of this case for lack of subject matter jurisdiction. (Id. at 5.)

The Yigals object to the Magistrate Judge’s recommendation, first, because he “reframes the Nature of the Cause of Action as a ‘custody’ and argues in the Order accordingly.” (Doc. 25 at 1 (unedited).) They then proceed to argue that the “Nature of the Cause of Action” is, rather violations of the Racketeer Influenced and Corrupt Organizations Act, an action for “Deprivation of Rights Under the Color of Law,” pursuant to 42 U.S.C. § 1983, and a criminal statute. (Id.) The most charitable construction that the Court can find for the Yigals’ blatant contradiction of their response to the Show Cause Order is that they have confused this case with their other case. Regardless, it is clear that either this case concerns “custody,” in which case the Magistrate Judge’s analysis of jurisdiction under that theory was correct, or it is an action for damages under some other statutory scheme, in which case it is redundant of their other case.

Although the Yigals do not identify any substantive defect in the Magistrate Judge's analysis of this Court's power over custody disputes, they do argue that this Court has jurisdiction based on the parties' diversity of citizenship. (See doc. 25 at 1.) The Magistrate Judge's analysis, however, relies, in part, on the fact that the United States Supreme Court has recognized that the statute establishing this Court's diversity jurisdiction excludes "child custody." (Doc. 23 at 2-3 (quoting Ankendorff v. Richards, 504 U.S. 689, 703 (1992); Ex parte Burrus, 136 U.S. 586, 593-94 (1890)). The Yigals' attempt, in their objection, to establish this Court's subject matter jurisdiction on diversity grounds, therefore fails. The Magistrate Judge also noted that, to the extent that the Yigals appeared to be seeking relief from a custody determination that was already made by a state court, this Court lacked jurisdiction to review the propriety of that determination. (Doc. 23 at 4 (citing Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923)). This Court is not empowered to review the decisions of state courts, even when the party challenging those decisions is a citizen of a different state. See, e.g., Behr v. Campbell, 8 F.4th 1206, 1209-10 (11th Cir. 2021) ("[S]tate court litigants do not have a right of appeal in the lower federal courts; they cannot come to federal district courts 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." (internal quotation marks and citation omitted)). To the extent that the Yigals' "Motion to Transfer" asserts objections to the Magistrate Judge's Report and Recommendation, those objections are **OVERRULED**.

The Yigals' formal objection concerns the fourteen-day deadline for filing objections. (See doc. 26 at 1.) Because they are located in "a foreign country," which the Court is aware from their other pleadings is the Philippines, and are relying on "snail mail" to both receive documents from the Court and submit documents for filing, they contend that "fourteen calendar days[] is not

reasonable nor realistic.” (*Id.*) Contrary to the Yigals’ implication, the Magistrate Judge did not establish the fourteen-day period for objections by fiat. It is established by statute. See 28 U.S.C. § 636(b)(1) (“Within fourteen days after being served with a copy, any party may serve and file written objections to [a magistrate judge’s report and recommendation] as provided by the rules of court.”). Moreover, it is well-established that “the clerk’s mailing of notice is deemed to be notice to a party, and service by mail is complete upon mailing.” Bradley v. Kelly Servs., Inc., 224 F. App’x 893, 896 (11th Cir. 2007) (citing Dunlap v. Transamerica Occidental Life Ins. Co., 858 F.2d 629, 632 (11th Cir. 1988)). To the extent that the Yigals object to the statutory objection period as unreasonable, based on the time it takes for them to receive documents mailed by the Clerk, their objection is **OVERRULED**.

To the extent that the Yigals request a “transfer” of this case to the Honorable J. Randall Hall, (doc. 25), the Court construes their request as a Motion to Recuse. See, e.g., Retic v. United States, 215 F. App’x 962, 964 (11th Cir. 2007) (“Federal courts sometimes will ignore the legal label that a pro se litigant attaches to a motion and recharacterize the motion in order to place it within a different legal category.” (citation omitted)). As this Court has explained:

Recusal is governed by 28 U.S.C. §§ 144 and 455. Jones v. Commonwealth Land Title Ins. Co., 459 F. App’x 808, 810 (11th Cir. 2012). Under Section 144, a judge must recuse himself when a party to a district court proceeding “files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party.” 28 U.S.C. § 144. “To warrant recusal under § 144, the moving party must allege facts that would convince a reasonable person that bias actually exists.” Christo v. Padgett, 223 F.3d 1324, 1333 (11th Cir. 2000); see also Jones, 459 F. App’x 811 (“The facts alleged in the affidavit must show that the bias was personal, not judicial in nature.” (citing United States v. Archbold-Newball, 554 F.2d 665, 682 (5th Cir. 1977))). Section 455(a) requires recusal where “an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge’s impartiality.” Parker v. Connors Steel Co., 855 F.2d 1510, 1524 (11th Cir. 1988). Any doubts must be

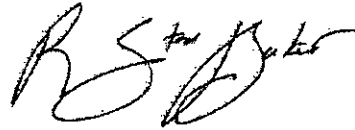
resolved in favor of recusal. United States v. Kelly, 888 F.2d 732, 744 (11th Cir. 1989).

Daker v. Allen, 2018 WL 9987239, at *1 (S.D. Ga. Mar. 12, 2018) (Hall, C.J.). The Yigals have not submitted an affidavit. (See generally doc. 25.) Other than objections to the Magistrate Judge's rulings, the only facts proffered are related to this Court's location in Savannah, where the facts alleged in the Complaint all occurred. (Id. at 2 (alleging that the defendants, "the group of persons associated together for a common purpose of engaging in a course of conduct is Savannah-based; and as such there is bias and / or political pressure (in the local community) to shield, protect, or defend their conduct..."); The fact that the defendants reside in the same city as this Court is not a basis for recusal. Plaintiffs' Motion is **DENIED**. (Doc. 25.)

For the reasons explained above, and after a careful de novo review of the entire record, the Court concurs with the Magistrate Judge's February 14, 2022, Report and Recommendation. (Doc. 23.) The Court **ADOPTS** the Report and Recommendation as its opinion. For the reasons discussed by the Magistrate Judge, the pleading, (doc. 1), is

DISMISSED. The Clerk of Court is **DIRECTED** to **CLOSE** this case. All pending motions are **DISMISSED** as moot.¹

SO ORDERED, this 21st day of March, 2022.



R. STAN BAKER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA

¹ Although not necessary to its disposition, the Court wishes to correct a misunderstanding of the Magistrate Judge's Report and Recommendation. The Yigals object that the Magistrate Judge "seems to go out of his way to punish the Plaintiffs by stipulating to this Honorable Court that no appeal be allowed." (Doc. 26 at 1.) Neither the Magistrate Judge, nor indeed any Judge of this Court, can preclude a proper appeal. See, e.g., 28 U.S.C. § 1291 ("The courts of appeals . . . shall have jurisdiction of appeals from all final decisions of the district courts of the United States . . . except where a direct review may be had in the Supreme Court."). The only time that the Report and Recommendation mentions an "appeal" is in the admonition concerning the risk of waiver of arguments on appeal if a party fails to assert those arguments in an objection to a magistrate judge's report and recommendation. (See doc. 23 at 7.) That notice informs plaintiffs of the effect of the Court of Appeals' rule. See, e.g., Belser v. Soc. Sec. Admin. Comm'r, 2021 WL 6116639 at *6 (11th Cir. Dec. 27, 2021) ("[T]he failure to object to an R&R waives the right to challenge on appeal a district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object." (citing 11th Cir. R. 3-1)). "In the absence of a proper objection, however, [the Judges of the Court of Appeals] may exercise [their] discretion and review on appeal for plain error if necessary in the interests of justice." Id. To be explicitly clear: nothing in the Magistrate Judge's Report and Recommendation, and nothing in this Order, limits in any way plaintiff's appellate rights.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

JUDITH YIGAL and OMRI YIGAL,))	
)	
Plaintiffs,)	
)	
v.)	CV421-230
)	
JULIA A. BUTLER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER AND REPORT AND RECOMMENDATION

The Court previously directed the *pro se* plaintiffs in this case, Judith Yigal and Omri Yigal, to show cause why this case should not be dismissed as redundant. *See* doc. 15 (citing *Yigal v. Cole, et al.*, CV4:21-079, doc. 1 (S.D. Ga. Jan. 16, 2021)). In that Order, the Court noted that the two cases “involve[] nearly identical claims, facts, and defendants . . .” *Id.* The Court directed the plaintiffs to respond within thirty days, *i.e.* no later than September 19, 2021. Some three months after that deadline ran, the plaintiffs filed their response.¹ *See* doc. 21 (filed

¹ Plaintiffs’ failure to timely respond to the Court’s Order provides an independently sufficient ground for dismissal of this case. *See* Fed. R. Civ. P. 41(b). Since, as discussed below, the Court lacks subject matter jurisdiction over this case, the Court need not reach that independently sufficient ground.

December 28, 2021). That response shows that this case should be dismissed.

Plaintiffs' response to the show-cause Order states in part, in unedited form, that:

The reason the case *Yigal et. al., v. Butler et. al.*, CV421-230 appear similar to *Yigal v. Cole, et. al.*, CV4:21-079 is the Defendants are essentially the same but the Cause of Action is different; in the former the cause of action is custody and in the latter, the cause of action is damages for violations of civil rights and deprivation of rights under the color of law.

Doc. 21 at 1, ¶ 3. That response clearly alleges that this case, albeit framed through different causes of actions, concerns "custody." However, the Complaint, originally filed in the Western District of Washington and then transferred to this Court, asserts jurisdiction based on diversity of citizenship and 42 U.S.C. § 1983. *See* doc. 1-1 at 4-5.

It is well established that federal courts are courts of limited jurisdiction; possessing only the power afforded to them by the Constitution and Congress. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The Supreme Court has clearly held that "the domestic relations exception [to federal courts' diversity jurisdiction, pursuant to 28 U.S.C. § 1332] . . . divests the federal courts of power to issue divorce, alimony, *and child custody* decrees."

Ankenbrandt v. Richards, 504 U.S. 689, 703 (1992) (emphasis added). Specifically, in child custody cases, the Supreme Court explained over 100 years ago that “[t]he whole subject of the domestic relations of husband and wife, *parent and child*, belongs to the laws of the states, and not to the laws of the United States. As to the right to the control and possession of [a] child, . . . it is one in regard to which neither the Congress of the United States, nor any authority of the United States, has any special jurisdiction.” *Ex parte Burrus*, 136 U.S. 586, 593-94 (1890). Consistent with that precedent, this Court has also held that “[s]ubjects of divorce, [child] custody, and alimony are within the exclusive jurisdiction of the state courts” *Grevious v. Sonner*, 2016 WL 7424128, at * 1 (S.D. Ga. Nov. 18, 2016), *adopted* 2016 WL 7422671 (S.D. Ga. Dec. 22, 2016).

Even assuming that there are exceptional circumstances where a federal court might have jurisdiction over a child-custody determination, *see, e.g., Grevious*, 2016 WL 7424128, at * 1 (“under almost all circumstances the federal courts lack jurisdiction over” custody disputes), the Yigal’s pleading in this case makes it clear that they do not seek a custody determination, but to overturn a custody determination

previously made by a state court. *See, e.g.*, doc. 1-1 at 8 (referring to proceedings in Georgia and Ohio state courts).² Although the exact procedural history of the underlying state court custody proceeding is not entirely clear, it is clear that this Court may not review the propriety of any decisions by state courts. *See, e.g., Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). To the extent that this suit seeks an Order from this Court overturning the state court's custody determination, this Court lacks jurisdiction. *See Butterfield v. JetBlue Airways Corp.*, 2022 WL 291003, at * 3 (11th Cir. Feb. 1, 2022) (citing, *inter alia.*, *Rohe v. Wells Fargo Bank, N.A.*, 988 F.3d 1256, 1262-63 (11th Cir. 2021)).

Regardless of whether the instant case seeks an original custody determination from this Court or review of a previously entered custody determination from a state court, this Court lacks subject matter jurisdiction. "It is to be presumed that a cause lies outside [of a federal court's] limited jurisdiction, [cit.], and the burden of establishing the

² As plaintiffs have affirmatively stated that this case arises out of the same facts as *Yigal v. Cole, et. al.*, CV421-079, *see* doc. 21 at 3, the Court notes that the Complaint in that case includes considerably more detailed allegations concerning the state court proceedings. *See* CV421-079, doc. 1 at 10-12 (referring to defendant Hon. Thomas Cole's "Order Transferring Immediate Temporary Legal Custody"), 20 (quoting an unspecified judicial order appointing defendant Julia Butler the minor child's "temporary custodian").

contrary rests upon the party asserting jurisdiction.” *Kokkonen*, 511 U.S. at 377 (internal quotation marks and citations omitted). Since it appears that, however construed, this Court lacks subject matter jurisdiction over plaintiffs’ “custody” claims, this case should be **DISMISSED**. See Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

Among the pending motions, two can be resolved with dispatch. Plaintiffs have filed two nearly identical motions for “Change of Venue.” See docs. 14 & 16. Both motions request that this case be transferred to the “Regional Trial Court, Region X, Branch 4-FC, Prosperidad, Agusan del Sur 8500,” in the Republic of the Philippines. See doc. 14 at 1; doc. 16 at 1. The motions are also seek the same relief as a motion plaintiffs filed in the related case, *Yigal, et al. v. Cole, et al.*, CV421-079, doc. 16 (S.D. Ga. Mar. 31, 2021). The Court denied that motion in May. See CV421-079, doc. 20 at 4-7 (S.D. Ga. May 20, 2021).

As the Court previously explained:

There is no mechanism for this Court to ‘transfer’ a case to a court outside the jurisdiction of the United States. The judicial systems of different countries are distinct entities and their respective structures, practices, and policies are often incompatible with one another. This Court does not possess the authority to compel a foreign court to accept a case or the

ability to coordinate such transfer. If plaintiffs wish their claims to be heard by a Philippine court, they should move to voluntarily dismiss this case and refile it in the appropriate Philippine court.


CV421-079, doc. 20 at 4-5. Although the plaintiffs assert different factual bases for the instant motion, the factual differences do not change this Court's inability to "transfer" this case to the Republic of the Philippines. Their motions are, therefore, **DENIED**. Docs. 14 & 16. The plaintiffs' remaining motions, docs. 17, 19, 20, 22, cannot be resolved unless the Court determines that it has subject matter jurisdiction over this case.

This Report and Recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and

recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; see *Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO ORDERED AND REPORTED AND RECOMMENDED, this
14th day of February, 2022.


CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-11274-J

JUDITH YIGAL,
on behalf of minor R.Y.,
OMRI YIGAL,
Biological Father, and on behalf of R.Y.,
Our Biological Daughter; and our Filipino Family,

Plaintiffs - Appellants,

versus

JULIA A. BUTLER,
THOMAS L. COLE,
Judge, Chatham County Juvenile Court,
ANDRAYA A. MIMMS,
Guardian ad Litem,
LEO G. BECKMANN, JR.,
WENDY M. FUREY, et al.,

Defendants - Appellées.

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

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Judith Yigal and Omri Yigal failed to comply with the rules on Certificates of Interested Persons and Corporate Disclosure Statements. See 11th Cir. Rules 26.1-1 through 26.1-4.

Effective July 28, 2022.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION