

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted January 4, 2024*

Decided January 4, 2024

BeforeILANA DIAMOND ROVNER, *Circuit Judge*DIANE P. WOOD, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*

No. 22-3047

KELLY MCGOFFNEY,
*Plaintiff-Appellant,**v.*MATTHEW KINCAID and VIGO
COUNTY PROBATE COURT,
*Defendants-Appellees.*Appeal from the United States District
Court for the Southern District of
Indiana, Terre Haute Division.

No. 2:21-cv-00478-JRS-DLP

James R. Sweeney II,
*Judge.***ORDER**

Kelly McGoffney sued Judge Matthew Kincaid and the Probate Division of the Vigo County Superior Court after the judge removed her as personal representative to

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Appendix A

her mother's estate and closed the estate. The district court dismissed the suit for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine. We affirm.

Following her mother's death in 2012, McGoffney became the personal representative of the estate, and she then spent five years pursuing multiple medical malpractice and wrongful death suits. The estate did not recover anything. But McGoffney believed that the estate should remain open to receive millions of dollars from bankruptcy and Social Security claims, civil lawsuits, and potential income from the mass production of one of her grandmother's famous recipes. After an intervenor filed a motion to show cause why McGoffney, who is not an attorney, should not be removed as personal representative, Judge Kincaid ordered McGoffney to hire an attorney to represent the estate and warned that not doing so would result in both her removal as personal representative and closure of the estate. McGoffney did not hire an attorney, and the judge followed through on his warning.

McGoffney attempted to persuade the state court to reopen the estate. When Judge Kincaid denied her petitions, McGoffney unsuccessfully appealed, and the Supreme Court of Indiana denied her request to consider the case. She then returned to the probate court to file an "emergency petition" to reopen the estate and to disqualify the judge for bias, but Judge Kincaid struck the petition as redundant. *See* IND. R. TRIAL P. 12(F). The appellate court affirmed.

McGoffney then sued Judge Kincaid and the probate court (perhaps as the judge's employer, though the reason is not clear) in federal court. She alleged that by removing her as personal representative, closing the estate, and denying her repeated requests to reopen the estate, the judge violated her rights under the federal Constitution, *see* 28 U.S.C. § 1983, and the "Open Courts" clause of the Indiana Constitution, *see* IND. CONST. art. I, § 12. She asked the district court to reopen the estate, restore her as personal representative, and effect a change of judge.

The defendants moved to dismiss for lack of subject-matter jurisdiction under the *Rooker-Feldman* doctrine, *see Rooker v. Fidelity Tr. Co.*, 263 U.S. 413 (1923); *District of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). The district court granted that motion; it explained that McGoffney's effort to use civil rights claims to void decisions of the probate court was a "blatant attempt at an appeal" of a state judgment.

On appeal, McGoffney argues that the district court failed to account for her constitutional arguments when it said that she was attempting to appeal the state

court's rulings. We review the jurisdictional dismissal de novo. *Sykes v. Cook Cnty. Cir. Ct. Prob. Div.*, 837 F.3d 736, 739 (7th Cir. 2016).

The district court was correct. The *Rooker-Feldman* doctrine deprives the lower federal courts of jurisdiction when someone who lost in state court sues in federal court, seeking, directly or indirectly, to overturn the state court's judgment. *Exxon Mobile Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Here, the injuries McGoffney complains of—being required to obtain a lawyer, her removal as personal representative, the premature closure of the estate, and the denial of her petitions to reopen—resulted directly from the probate court's decisions. *See Mains v. Citibank*, 852 F.3d 669, 675 (7th Cir. 2017). Moreover, she expressly seeks reopening of the estate—relief that would be “tantamount to vacating the state judgment.” *Id.*

Although McGoffney correctly asserts that the *Rooker-Feldman* doctrine does not apply when a plaintiff challenges independently unlawful conduct, *see id.* at 675, she does not raise that type of challenge. She points to nothing other than judicial rulings as the wrongs against her. The *Rooker-Feldman* doctrine blocks such challenges, even if they are constitutional in nature. *See Hadzi-Tanovic v. Johnson*, 62 F.4th 394, 401 (7th Cir. 2023). And, to the extent that McGoffney implies that the state judgment was the product of bias or corruption, such allegations do not shield her lawsuit from the application of the *Rooker-Feldman* doctrine. *See id.* at 404–06.

Finally, even if the *Rooker-Feldman* doctrine did not apply across the board to McGoffney's claims (and we think it does), the probate exception would deprive the federal courts of jurisdiction. The probate exception to federal jurisdiction “reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate.” *Marshall v. Marshall*, 547 U.S. 293, 311 (2006). McGoffney's claims all pertain to how the probate court administered her mother's estate. *See Owsley v. Gorbett*, 960 F.3d 969, 971 (7th Cir. 2020) (“[T]he state court's decision to retain Lisa as the estate's representative is not subject to collateral attack.” (citing *Marshall*, 547 U.S. at 305–12)). The federal courts, therefore, cannot adjudicate them.

AFFIRMED

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

February 14, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 22-3047

KELLY MCGOFFNEY,
Plaintiff-Appellant,

v.

MATTHEW KINCAID and VIGO
COUNTY PROBATE COURT,
Defendants-Appellees.

Appeal from the United States District
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No. 2:21-cv-00478-JRS-DLP

James R. Sweeney, II,
Judge.

ORDER

On consideration of the petition for rehearing and petition for rehearing en banc, no judge in regular active service has requested a vote on the petition for rehearing en banc¹ and the judges on the original panel have voted to deny rehearing. It is, therefore, **ORDERED** that the petition for rehearing and petition for rehearing en banc is **DENIED**.

¹ Circuit Judge Doris L. Pryor and Circuit Judge Joshua P. Kolar did not participate in the consideration of this petition for rehearing en banc.

Appendix B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

KELLY MCGOFFNEY, individually and on)
behalf of the estate of CARRIE ETTA)
MILLS-MCGOFFNEY,)

Plaintiff,)

v.)

No. 2:21-cv-00478-JRS-DLP

MATTHEW KINCAID, in his official)
capacity as the special judge in Vigo County)
Probate Court/Superior Court 1, and VIGO)
COUNTY PROBATE COURT,)

Defendants.)

Final Judgment

As set forth in the Order also issued this day, the case is barred by the *Rooker-Feldman* doctrine, and the Court retains no subject-matter jurisdiction over any claims. Leave to amend has been preemptively denied as futile, so the case cannot continue.

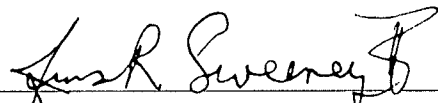
The Court directs the Clerk to **close the federal case**.

This is a **final judgment** under Federal Rule of Civil Procedure 58. This case is closed.

Date: 09/26/2022

Roger A.G. Sharpe, Clerk

BY: Samantha Burmester
Deputy Clerk, U.S. District Court


JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Appendix C

Distribution by U.S. Mail to:

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Distribution by CM/ECF to registered counsel of record.