No. 24-

IN THE

Supreme Court of the United States

DAVID EFRON,

Petitioner,

v.

MADELEINE CANDELARIO,
MICHELLE PIRALLO DI CRISTINA,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The questions presented are:

1. Does the *Rooker-Feldman* doctrine bar a civil-rights suit alleging judicial corruption that led to a state-court judgment when the plaintiff does not seek to relitigate, review, modify or set aside any issue decided by the state-court judgment?

2. Does the *Rooker-Feldman* doctrine preclude federal jurisdiction over a civil-rights claim for damages arising from extrinsic fraud committed by private parties in collusion with corrupt state-court judges, when the injury stems from the conspiracy itself rather than the later state-court judgment?

STATEMENT OF RELATED PROCEEDINGS

This case is directly related to and arises from the following proceedings:

Efron v. Candelario, et al., No. 22-21452-CIV-MARTINEZ-BECERRA, U.S. District Court for the Southern District of Florida. Judgment entered Feb. 3, 2023.

Efron v. Candelario, et al., No. 23-10691 U.S. Court of Appeals for the Eleventh Circuit. Judgment entered on denial of rehearing and rehearing en banc, Sept. 26, 2024.

TABLE OF CONTENTS

Table of Contents

TABLE OF APPENDICES

TABLE OF CITED AUTHORITIES

Page

CASES:

Page

Page

STATUTES & OTHER AUTHORITIES:

OPINIONS BELOW

The Eleventh Circuit's decision is reported at 110 F.4th 1229 (11th Cir. 2024). (App. A 1a-15a). The district court's decision is unreported but available at 2023 WL 2394592 (App. B 16a-31a).

STATEMENT OF JURISDICTION

The Eleventh Circuit issued its opinion on August 2, 2024, (App. A 1a-15a), and denied the petition for rehearing en banc on September 26, 2024. (App. C 32a-33a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT PROVISIONS

U.S. Const. art. III, § 2:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.
>
> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

28 U.S.C. § 1257(a):

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

INTRODUCTION

In *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005), this Court sought to define the reach of the *Rooker-Feldman* doctrine, restricting its application to the "limited circumstances" for which it was intended. *Id.* at 283. Under *Exxon Mobil*, the *Rooker-Feldman* doctrine applies only when (i) the injury was caused by a state-court judgment; and (ii) the claim seeks review and rejection of that judgment. Neither condition is satisfied in David Efron's lawsuit.

Yet the Eleventh Circuit held that Efron's lawsuit *was* barred—further deepening a growing divide among the circuits over how and when to apply *Exxon Mobil's* substantive requirements. The conflict is further exemplified by the Seventh Circuit's recent *en banc* decision in *Gilbank v. Wood County DHS*, 111 F.4th 754 (7th Cir. 2024) (en banc), in which three separate opinions struggled to define (i) when an injury arises from a state-court judgment; and (ii) when a federal claim constitutes an impermissible appeal of that judgment. Multiple judges in *Gilbank* explicitly called for this Court's review. *Id.* at 760.

The Court's intervention is urgently needed to resolve the circuit split and to reaffirm the narrow limits of the *Rooker-Feldman* doctrine—particularly as it applies to federal civil-rights claims alleging conspiracies to corrupt state-court proceedings and deny the constitutional right to an impartial forum.

STATEMENT OF THE CASE

1. Factual Background

David Efron filed a federal lawsuit against his ex-wife and her attorney, alleging they conspired with two Puerto Rico state-court appellate judges to deprive him of a fair legal process in ongoing divorce-related litigation. According to Efron, the defendants engaged in a *quid pro quo* scheme, exchanging favorable state-court appellate decisions for personal favors. This corruption resulted in biased rulings that awarded Efron's ex-wife $50,000.00 in future and retroactive monthly payments as advances against the eventual division of marital assets to be distributed from the as yet undetermined marital estate. *Efron v. Candelario*, 110 F.4th 1229, 1232 (11th Cir. 2024) (App. A at 3a-4a, 20a). Efron's ex-wife has since continued to enforce the state-court judgment involving the distribution of marital assets against nonmarital assets. (*Id.* at 4a).

2. Procedural History

The district court dismissed Efron's complaint by application of the *Rooker-Feldman* doctrine, concluding that his conspiracy claims were "inextricably intertwined" with the later-occurring state-court appellate decisions that resulted from the alleged scheme.

The Eleventh Circuit affirmed on different grounds, holding that the constitutional violations Efron alleged were inseparable from the later state-court judgment and that his lawsuit would "explicitly negate" that judgment. (App. A at 15a). The court rejected Efron's argument

that (i) his injury arose from the conspiracy itself, not the judgment that was one of its outcomes, and (ii) he sought no relief to overturn or effectively nullify the state-court judgment. The decision explicitly rejected the argument that extrinsic fraud should create an "exception" to *Rooker-Feldman*: "this Circuit has never recognized such an exception, and we decline to do so here." (App. A at 2a, n.2).

Efron timely petitioned for rehearing and rehearing *en banc*, both of which were denied. (App. C at 32a-33a).

REASONS FOR GRANTING THE PETITION

I. The Circuits Are Deeply Divided on the "Source of Injury" Element of the *Rooker-Feldman* Doctrine.

The Court has held that the *Rooker-Feldman* doctrine bars a federal action following a state-court judgment only when the alleged injury is caused by the judgment itself. Nonetheless, the circuits are deeply divided over how to apply *Rooker-Feldman*'s "source of injury" element, particularly in cases where the injury alleged stems from extrinsic fraud predating the state-court judgment. This confusion highlights the urgent need for this Court's intervention to clarify the doctrine's scope.

A. The Narrow-Interpretation Circuits Allow Extrinsic Fraud Claims Based on Independent Injuries.

Five circuits—the Second, Third, Sixth, Ninth, and Tenth Circuits—recognize that *Rooker-Feldman* does not bar federal claims based on allegations of extrinsic

fraud (including judicial corruption) or other independent wrongs that predate—and thus do not result from—the regular judicial decision-making process or the substance of a state-court judgment.

- In *Great Western Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159 (3d Cir. 2010), the Third Circuit held that impairment of the constitutional right to an impartial state-court forum is independent and distinct from an injury caused by a state-court decision. *Id.* at 172-73. *Rooker-Feldman* thus did not bar a federal § 1983 claim alleging a conspiracy to fraudulently influence state-court proceedings. The court of appeals reasoned that the plaintiff's claim was based on wrongful conduct extrinsic to the state court judgment itself, such as fraud impairing the right to an impartial forum. The court emphasized that federal jurisdiction is appropriate where plaintiffs seek redress for independent injuries caused by wrongful acts outside the judicial decision-making process. *Id.* (The court relied on the Seventh Circuit's analysis in *Nesses v. Shepard*, 68 F.3d 1003 (7th Cir. 1995), which was that circuit's law until a panel reversed it in 2023, increasing the confusion in the circuits in applying *Rooker-Feldman*.)

- In *VanderKodde v. Mary Jane M. Elliott, P.C.*, 951 F.3d 397 (6th Cir. 2020), the Sixth Circuit rejected a *Rooker-Feldman* bar to claims that state-court defendants had fraudulently calculated pre- and post-judgment interest rates that were inserted into the state-court judgment. The fraudulent

conduct by the state-court defendants was an independent cause of the injury; it was not caused by the state-court judgment, which merely included—but failed to correct—the improper judgment interest rate. This distinction reaffirms the narrow scope of the *Rooker-Feldman* doctrine: it applies only when the plaintiff's federal action effectively seeks to overturn a state-court judgment. The court highlighted that claims seeking damages for extrinsic fraud do not fall within *Rooker-Feldman*'s scope because they do not constitute appellate review of the state court's decision.

- In *Kougasian v. TMSL, Inc.*, 359 F.3d 1136 (9th Cir. 2004), the Ninth Circuit allowed a plaintiff to pursue federal claims for extrinsic fraud even though the alleged fraud resulted in adverse state-court judgments. The court found that *Rooker-Feldman* does not bar federal jurisdiction when the plaintiff's claim centers on wrongful actions taken outside the state court's adjudicative process: "Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act committed by the party or parties who engaged in the fraud." *Id.* at 1141.

- In *Mayotte v. U.S. Bank Nat. Ass'n*, 880 F.3d 1169 (10th Cir. 2018), the Tenth Circuit addressed a federal claim alleging that bank employees had deceived the plaintiff into agreeing to a proposed mortgage modification, only to foreclose on her home—which was later sold pursuant to a state-court order. Although the plaintiff sought

relief that might appear inconsistent with the state-court judgment, the court held that *Rooker-Feldman* did not apply because "[h]er claims are based on events predating the [court] proceeding." *Id.* at 1175.

- In *Hunter v. McMahon*, 75 F.4th 62, 72 (2d Cir. 2023), the Second Circuit explained that *Rooker-Feldman* does not apply to a conspiracy among private actors that preceded the state-court decision: "The state-court judgment did not *produce* this alleged earlier-in-time conduct, though it may have adjudicated the legitimacy of the conduct after the fact."

B. The Broad-Interpretation Circuits Reject Extrinsic Fraud Claims Based on Independent Injuries.

Two circuits—the Seventh and the Eleventh Circuits—now take a much broader view of the *Rooker-Feldman* doctrine, and the Tenth Circuit is internally inconsistent. The Eleventh Circuit's decision in *Efron v. Candelario* highlights this growing divide between two camps in the federal circuits. The split concerns whether extrinsic fraud constitutes an independent, preexisting source of injury that precludes the application of *Rooker-Feldman* or, instead, deprives federal courts of subject-matter jurisdiction.

In *Efron*, the Eleventh Circuit explicitly rejected the argument that the conspiracy to impair the constitutional right to an impartial forum was a preexisting, independent source of injury. The court reasoned that the state-court

judgment was necessarily a product of that alleged injury and that the claim was thus barred. (App. A at 14a-15a). But the conspiracy to corrupt the state-court judges was, in fact, the preexisting and independent source of injury that destroyed the impartiality of the state-court tribunal. (*Id.* at 11a).

The Eleventh Circuit went further, rejecting what it dubbed an "exception" to *Rooker-Feldman*. It held that even when a plaintiff alleges fraudulent conduct by private parties and state-court judges to corrupt the state-court process, any federal claim seeking damages is barred if it would undermine an ensuing state-court judgment. (*Id.* at 11a-12a).

The Eleventh Circuit's position effectively shields from federal review any independent source of injury arising from pre-judgment (and even pre-*litigation*) misconduct that influences the outcome of state-court proceedings. This approach directly conflicts with *Exxon Mobil*, which held that *Rooker-Feldman* does not bar federal claims when the "federal plaintiff presents some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party …" *Exxon Mobil*, 544 U.S. at 293.

The Eleventh Circuit's interpretation in *Efron* aligns with the Seventh Circuit's newly-revised approach in *Hadzi-Tanovic v. Johnson*, 62 F.4th 394 (7th Cir. 2023). There, the court dismissed a § 1983 action alleging that the defendants engaged in fraudulent conduct to manipulate a custody proceeding, thereby interfering with the plaintiff's right to an impartial forum. The court held that the claims were barred under *Rooker-Feldman*

because the relief sought would effectively nullify the state court's judgment, even though the plaintiff alleged an independent source of injury—overruling *Nesses*. 62 F.4th at 401-408.

The Seventh Circuit explicitly rejected the argument that extrinsic fraud preceding the state-court process constitutes an independent wrong beyond *Rooker-Feldman's* reach. It justified that result by reasoning that the pre-suit conspiracy to impair the forum's integrity allegedly succeeded by involving the state court itself. *Hadzi-Tanovic*, 62 F.4th at 407.

The Seventh Circuit's subsequent *en banc* decision in *Gilbank v. Wood County DHS*, 111 F.4th 754 (7th Cir. 2024) (en banc), only deepened the circuit's internal divide. In *Gilbank*, the court was nearly evenly split on whether *Rooker-Feldman* applies when federal claims are based on fraud that leads to an adverse state-court judgment, even though the suit does not seek to overturn that judgment. *Gilbank*, 111 F.4th at 793 (opinion by Kirsch, J.)

While all judges in *Gilbank* rejected the need to frame the analysis as an "exception" to the doctrine, *id.* at 761, several emphasized that *Rooker-Feldman* should not bar jurisdiction when plaintiffs allege that third parties committed fraud upon the state court to obtain a favorable judgment. *Id.* at 793–94. In a sharply worded opinion, Circuit Judge Kirsch argued that extending *Rooker-Feldman* to eliminate independent fraud claims effectively deprives federal plaintiffs of their statutory rights under § 1983. *Id.* at 795-96.

The Tenth Circuit has also occasionally taken a broader view—similar to the Eleventh Circuit's—that

Rooker-Feldman bars federal jurisdiction over claims that might indirectly impact state-court judgments, even if premised on fraud. For example, in *Campbell v. City of Spencer*, 682 F.3d 1278 (10th Cir. 2012), the court dismissed a § 1983 claim where the plaintiff alleged fraud in obtaining a state-court order. By rejecting the independence of that fraud from the state-court judgment, these circuits prevent federal courts from addressing allegations of constitutional violations tied to state-court proceedings, even where those violations are independent of the judgments themselves.

This conflict among the circuits on one of the two key elements governing application of the *Rooker-Feldman* doctrine underscores the pressing need for this Court's intervention. Without clear guidance, plaintiffs alleging serious constitutional violations—such as bribery or fraud that precede and are independent of the state-court judgment—are left without recourse in the federal courts, precisely because the judgment itself is tainted by those wrongful acts. Such decisional inconsistency undermines the integrity of the judiciary and erects unjust barriers for persons harmed by extrinsic fraud.

II. The Eleventh Circuit's Expansion of *Rooker-Feldman* Exceeds This Court's Limits on What Constitutes a *De Facto* Appeal of a State-Court Judgment.

The Eleventh Circuit's decision in *Efron v. Candelario* represents a significant expansion of the *Rooker-Feldman* doctrine, eroding this Court's longstanding precedent that the doctrine is narrow and intended to prevent only *de facto* appeals of state-court judgments.

A. Federal Courts Have a Duty to Address Constitutional Wrongs.

The Eleventh Circuit decision makes a fundamental error: it undermines the federal courts' duty to address constitutional violations arising from independent misconduct that does not ask the federal court to review and reject a state-court judgment. By expanding *Rooker-Feldman*, the Eleventh Circuit disregards this Court's teaching to fulfill the "virtually unflagging obligation of the federal courts to exercise the jurisdiction given them." *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976).

In *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69 (2013), the Court reaffirmed that federal courts must exercise their jurisdiction unless expressly limited by statute. The Eleventh Circuit's decision undermines this principle by allowing *Rooker-Feldman* to foreclose federal jurisdiction over independent source-of-injury claims of extrinsic fraud—claims that challenge the impartiality of the state-court forum and do not seek to reverse the state-court judgment. This misapplication leaves plaintiffs without a federal forum to address grave constitutional wrongs, undermining the courts' essential role as guardians of constitutional rights.

B. The Eleventh Circuit's Decision Undermines the Distinction Between Independent Wrongs and Review of a State-Court Judgment.

This Court has consistently distinguished claims challenging state-court judgments from those targeting independent wrongs. This distinction is critical: conflating

independent wrongs with state-court judgments denies plaintiffs a federal forum for legitimate claims of extrinsic fraud, allowing wrongful actors to shield themselves from accountability under the guise of *Rooker-Feldman*.

The Eleventh Circuit erases the critical line between challenges to state-court judgments and claims targeting independent misconduct—central to this Court's *Rooker-Feldman* jurisprudence. In *Skinner v. Switzer*, 562 U.S. 521 (2011), the Court permitted a § 1983 claim where the plaintiff challenged procedures used by state actors. The Court emphasized that federal jurisdiction exists when the plaintiff does not seek to overturn a state-court decision but instead targets a separate legal wrong. *Skinner* reflects the Court's careful balance between respecting state-court judgments and safeguarding federal jurisdiction over constitutional claims.

The Eleventh Circuit's decision disrupts this careful balance by treating any challenge that implicates a state court's decision as an impermissible appeal. This expansive view risks turning *Rooker-Feldman* into a sweeping jurisdictional bar, blocking federal courts from hearing claims of extrinsic fraud, collusion, and other due process violations that predate—and are independent of—the state-court proceeding. By disregarding this Court's directive, the decision turns *Rooker-Feldman* into a blunt jurisdictional bar, shielding even those who corrupt the judicial process from accountability.

C. Misapplication of *Exxon Mobil*.

The Eleventh Circuit's conflation of independent wrongs with state-court challenges directly contradicts

this Court's clear, narrow limits on *Rooker-Feldman* in *Exxon Mobil*. As *Exxon Mobil* confirms, federal courts retain jurisdiction over claims targeting independent misconduct—a principle the Eleventh Circuit ignored here. 544 U.S. at 293.

The Eleventh Circuit's decision directly contradicts *Exxon Mobil*, where this Court emphasized that *Rooker-Feldman* "is confined 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*." 544 U.S. at 284 (emphasis added).

The Eleventh Circuit's application of *Rooker-Feldman* in *Efron* departs from this principle by extending the doctrine to bar claims seeking damages for wrongful conduct that allegedly corrupted the state-court process. The Eleventh Circuit reasoned that awarding damages for Efron's extrinsic fraud claim would undermine the state court's judgment—even though Efron did not seek to overturn the judgment itself. (App. A 13a-15a).

This expansive interpretation improperly conflates *Rooker-Feldman* with preclusion doctrines—distinct principles that address re-litigation of decided issues, not jurisdiction. Under this view, "a practical application fits the doctrine better than … decisive reliance on the form of relief sought." *Gilbank*, 111 F.4th at 770 (opinion by Hamilton, J.). *Rooker-Feldman* thus applies, according to this interpretation, even when the federal lawsuit does not seek to reverse or modify a state-court judgment, as "the

claim is barred because its premise is that the state-court judgments were wrong …" *Id.*

The Eleventh Circuit embraced this approach, holding that the "constitutional issue" Efron asserted was the state-court decision itself—an assertion that, in the court's view, necessarily required a finding that subject-matter jurisdiction was lacking. (App. A at 15a). But this mischaracterizes Efron's § 1983 constitutional claim, which was based on a preexisting wrongful conspiracy, agreed upon before the state-court appellate process began, to corrupt the impartial judicial forum. Efron sought damages for that independent misconduct, not relief from the appellate decision that resulted from the conspiracy; nor did he seek to set aside the advances awarded in the property distribution by the state court.[1]

The practical application adopted by the Seventh and Eleventh Circuits highlights a significant conflict with circuits that apply *Rooker-Feldman* narrowly--those requiring that the federal lawsuit *actually* seek

1. The pending certiorari petition in *Gilbank* offers a thorough survey of those circuits that have taken the expanded, practical approach to whether the federal suit seeks to appeal the state-court judgment, contrasting those circuits with three that take the narrow approach hewing precisely to *Exxon Mobil's* insistence that *Rooker-Feldman's* jurisdictional bar applies strictly to an appeal that demands review and rejection of the relief ordered by the state-court judgment. *Gilbank v. Wood Cnty. Dep't of Human Servs.*, No. 24-470. The *Gilbank* petition states that the Eleventh Circuit applies the "narrow" approach, *id.* at 21-3, however, the recently published decision in *Efron v. Candelario* was not accounted for, and it plainly applies the "practical" approach to deeming a federal lawsuit an "appeal" even when it does not seek to modify or overturn a state-court judgment.

to overturn the state-court judgment. For example, the Fifth Circuit held that illegal acts by a bank in misleading the court were independent of the state-court foreclosure judgment because the plaintiff did not seek to set aside that judgment. *Truong v. Bank of Am., N.A.*, 717 F.3d 377, 383 (5th Cir. 2013). Similarly, the Eighth Circuit found *Rooker-Feldman* inapplicable where the suit alleged fraudulent conduct in obtaining the judgment, reasoning that such claims do not seek review or reversal of the judgment itself. *MSK Eyes Ltd. v. Wells Fargo Bank, Nat'l Ass'n*, 546 F.3d 533, 539 (8th Cir. 2008). These decisions underscore a clear split over the doctrine's reach.

D. The Decision Threatens the Integrity of Federal Civil Rights Protections.

The Eleventh Circuit's decision undermines 42 U.S.C. § 1983—a statute enacted to safeguard federal rights against abuse, including conspiracies to corrupt state-court proceedings. By misapplying *Rooker-Feldman*, the decision effectively insulates state actors and private conspirators from federal accountability. This Court has long recognized that § 1983 is a critical safeguard for holding state actors accountable for misconduct. In *Mitchum v. Foster*, 407 U.S. 225 (1972), the Court emphasized that § 1983 was enacted to provide a federal remedy against abuses of power by state officials.

The Court has also long recognized that the Seventh Amendment guarantees the right to trial by jury and that Article III, together with the Fifth Amendment, "entitles individuals to an independent judge who will preside over that trial." *Securities & Exchange Comm. v. Jarkesy*, __ U.S. __, 144 S. Ct. 2117, 2140 (2024) (Gorsuch,

J., concurring). The Court has further held that the Fourteenth Amendment extends this right to an impartial tribunal to state court proceedings. *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57, 62 (1972); *In re Murchison*, 349 U.S. 133, 136 (1955). That right "preserves both the appearance and reality of fairness" in civil and criminal cases. *Marshall v. Jerrico*, 446 U.S. 238, 242 (1980).

The Court recently curtailed intrusions on Article III power that necessarily impair litigants' access to an impartial tribunal to resolve cases and controversies. *See Jarkesy*, 144 S. Ct. at 2127 (Seventh Amendment entitles defendant to jury trial when SEC seeks civil penalties for securities fraud); *Loper Bright Enters. v. Raimondo*, __U.S. __, 144 S. Ct. 2244, 2259 (2024) (Article III imposes constitutional obligation on courts to use their judgment to decide questions of law, overruling *Chevron* deference).

Although *Rooker-Feldman* is not a constitutional doctrine, its misapplication infringes on a litigant's fundamental right to an impartial forum. Federal courts cannot abdicate their role in addressing grave constitutional wrongs. A federal court's refusal to exercise the subject-matter jurisdiction granted by Congress risks precisely that result. Together with the Seventh Circuit's decision in *Hadzi-Tanovic*, the Eleventh Circuit's approach reveals a troubling trend: a return to the days when district courts had broad license to reject subject-matter jurisdiction whenever they perceived the core of a federal lawsuit as a challenge to a state court judgment—even when the claim was not an appeal in any conventional sense.

This path leads to untenable distinctions. For instance, *Hadzi-Tanovic* suggested that a federal suit alleging a conspiracy to defraud a state court could constitute an independent claim—unless the state-court judge participated in the conspiracy. 62 F.4th at 407. Such distinctions find no basis in 28 U.S.C. § 1257(a) or in this Court's insistence on a narrow construction of *Rooker-Feldman*. *Exxon Mobil*, 544 U.S. at 284.

The Eleventh Circuit's conflation of independent wrongs with state-court review shields egregious constitutional violations from federal scrutiny. That overly-broad application of the *Rooker-Feldman* doctrine effectively insulates state actors—and those conspiring with them—from federal review, even in the face of credible allegations of fraud that corrupted the state-court judicial process. This unwarranted expansion deprives plaintiffs like David Efron of a federal forum to remedy independent constitutional wrongs and emboldens, perhaps even encouraging, those who would manipulate state-court proceedings, secure in the knowledge that federal oversight is foreclosed.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, FILED AUGUST 2, 2024

IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 23-10691

DAVID EFRON,

Plaintiff-Appellant,

versus

MADELEINE CANDELARIO,
MICHELLE PIRALLO DI CRISTINA,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cv-21452-JEM

Filed August 2, 2024

Before WILSON, GRANT, and LAGOA, Circuit Judges.

LAGOA, Circuit Judge:

David Efron appeals the dismissal of his complaint, in which he asserted four claims: (1) deprivation of

procedural due process under 42 U.S.C. § 1983 (Count I); (2) conspiracy to deny civil rights under § 1983 (Count II); civil conspiracy (Count III); and unjust enrichment (Count IV). On appeal, Efron contends that the district court erred in finding that the *Rooker-Feldman* doctrine bars his claims from federal review.[1] After careful consideration of the parties' arguments and with the benefit of oral argument, we conclude that the *Rooker-Feldman* doctrine bars Efron's claims, and we affirm the district court's dismissal of Efron's complaint for lack of subject matter jurisdiction.[2]

I. FACTUAL AND PROCEDURAL BACKGROUND

David Efron and Madeleine Candelario filed for divorce in Puerto Rico. At some point during the dissolution litigation, Efron was ordered to pay Candelario $50,000 per month as an advance towards the marital asset distribution, but those payments ceased when the divorce was finalized. Thereafter, Candelario began a romantic relationship with a Puerto Rico Court of Appeals Judge, Cordero.

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1. The doctrine takes its name from two Supreme Court decisions: *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 2d 362, 68 L. Ed. 362 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983).

2. In the alternative, Efron argues that *Rooker-Feldman* does not bar his § 1983 claims because they fall (or should fall) under an extrinsic fraud exception to the doctrine. As Efron acknowledges, this Circuit has never recognized such an exception, and we decline to do so here.

Around the same time, another Puerto Rico Court of Appeals Judge, Aponte, had a problem: his brother, Jorge Aponte Hernandez, had been charged in Puerto Rico with public corruption. Efron alleges that, during the pendency of his marriage property litigation and Mr. Jorge Aponte's criminal case, Candelario, her attorney Michelle Pirallo Di Cristina ("Pirallo"), Judge Cordero, and Judge Aponte met and agreed to a quid pro quo: Judge Cordero would make sure Judge Aponte's brother went free, and Judge Aponte would rule in Candelario's favor on a new motion to reinstate the $50,000 monthly payments. According to Efron, the scheme succeeded.

Mr. Jorge Aponte moved to amend his indictment, seeking to remove some of the language alleging his level of intent. The trial court denied the motion, but the Court of Appeals—including Judge Cordero—reversed and ruled in Aponte's favor. At the ensuing criminal trial, Mr. Aponte was acquitted by the trial judge for a lack of evidence of wrongdoing.[3] As for Candelario, she moved for the $50,000 payments to resume and to apply retroactively to an earlier date with interest. In a three-judge panel opinion authored by Judge Aponte, the Court of Appeals granted her request. *See Candelario del Moral v. Efron*, Nos. KLCE0500605, KLCE0500616, 2006 PR App. LEXIS 251, 2006 WL 536597 (P.R. Cir. Jan. 31, 2006), as amended, *Candelario del Moral v. Efron*, Nos. KLCE0500605, KLCE0500616, 2006 PR App. LEXIS 444, 2006 WL 1044530 (P.R. Cir. Feb. 16, 2006).

3. Mr. Aponte later filed a lawsuit claiming malicious prosecution, but the jury found in favor of the state prosecutors.

According to Efron, Judge Aponte's opinion finalized the alleged fraudulent scheme. Indeed, Efron maintains that the "scheme was wildly successful" because both parties got what they wanted: Mr. Aponte was declared not guilty and Candelario has received approximately $7 million from Efron.

Since Judge Aponte's decision, the parties have been embroiled in a series of disputes concerning payment of the advancements. After paying around $400,000 to Candelario, Efron refused to make further monthly payments. In response, Candelario has garnished Efron's salary and attached his bank and brokerage house accounts, as well as other assets. Efron asserts that Cande-lario's repeated legal victories, which all rely upon the Judge Aponte decision, are proof that "the scheme is . . . still in operation to this very day." In addition to asserting that he has "no ability to overturn the [Aponte] decision" Efron also alleges that Candelario has intentionally delayed the property distribution case for twenty years—seeking "seemingly endless continuances [and] . . . recusal of judges" with the goal of continuing to receive the $50,000 monthly "advance payments."

On May 10, 2022, Efron filed a complaint in federal district court against Candelario and her attorney, Pirallo. Efron asserted four claims: (1) deprivation of his constitutional procedural due process rights under 42 U.S.C. § 1983 (Count I); (2) conspiracy to deny civil rights under § 1983 (Count II); civil conspiracy (Count III); and unjust enrichment (Count IV). In his first three claims, Efron alleged that as a direct and proximate consequence of the defendants' actions he suffered monetary damages in an amount not less than $7 million. His fourth claim

asserted his entitlement to return of the money so far received by Candelario and Judge Cordero (who, while not a defendant, allegedly benefitted from the funds as Candelario's live-in boyfriend). And at the end of his recitation of facts, Efron asserted that, until his due process rights "are restored by the abrogation of the Aponte decision, Candelario and Pirallo will continue to have free reign to use the corrupt orders in that case to enlist the courts of Florida and Puerto Rico as unwitting co-conspirators in their illegal scheme."

Candelario moved to dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) and for failure to state a claim under 12(b)(6). She argued (1) that the court lacked subject-matter jurisdiction over the action under the *Rooker-Feldman* doctrine, (2) that the action was time-barred, and (3) that Efron had failed to state a cause of action under § 1983. She asked that Efron's claim be dismissed with prejudice.

On January 5, 2023, the district court granted in part and denied in part Candelario's motion to dismiss and dismissed the complaint without prejudice, finding that it had no subject matter jurisdiction over Efron's claims. In short, the district court noted that the *Rooker-Feldman* doctrine bars federal judicial review of claims that are "inextricably intertwined" with a state court judgment such that granting relief would "effectively nullify" the state court judgment, or where claims may succeed "only to the extent that the state court wrongly decided the issues."[4] The court concluded that Efron's claims are

4. Here, the district court relied on our decisions in *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009), *Powell v. Powell*, 80

"inextricably intertwined" with the Puerto Rico court's judgment and thus prohibited by *Rooker-Feldman*. The court also rejected Efron's argument that his claim fell under a fraud exception to the *Rooker-Feldman* doctrine.

Having dismissed Efron's complaint on jurisdictional grounds, the district court declined to reach the remainder of Can-delario's arguments.

Efron timely appealed.

II. STANDARD OF REVIEW

When evaluating a district court's resolution of a Rule 12(b)(1) motion to dismiss for lack of subject matter jurisdiction, we review legal conclusions de novo and findings of fact for clear error.[5] *Glob. Marine Expl., Inc. v. Republic of France*, 33 F.4th 1312, 1317 (11th Cir. 2022).

F.3d 464, 467 (11th Cir. 1996), and *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001).

5. The parties in this case dispute the kind of jurisdictional challenge presented here. A motion to dismiss for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1) can be based on either a "facial" or a "factual" challenge to the complaint. *See McElmurray v. Consol. Gov't*, 501 F.3d 1244, 1251 (11th Cir. 2007). In a facial challenge, a court must consider the allegations of the plaintiff's complaint as true and merely "look and see if [the] plaintiff has sufficiently alleged a basis of subject matter jurisdiction." *Lawrence v. Dunbar*, 919 F.2d 1525, 1529 (11th Cir. 1990) (alteration in original and quotation marks omitted). By contrast, a factual attack challenges "the existence of subject matter jurisdiction in fact, irrespective of the pleadings, and matters outside the pleadings, such as testimony and affidavits are considered." *Id.*

III. ANALYSIS

On appeal, Efron argues that the district court erred in holding that the *Rooker-Feldman* doctrine deprived it of jurisdiction over Efron's complaint. According to Efron, the doctrine does not apply because he does not ask that the district court overturn the state court opinion but rather seeks compensatory damages.

The *Rooker-Feldman* doctrine "is a jurisdictional rule that precludes the lower federal courts from reviewing

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Though Appellees characterized their claim to the district court as a factual attack on the court's jurisdiction, the court found that they brought a facial challenge because "the universe of facts upon which the Motion relies is contained in the Complaint and attachments thereto." On appeal, Efron adopts the district court's position, asserting that Appellees brought a facial challenge and that the district court was thereby required to accept Efron's facts as true. Pointing to a string of district court opinions, Appellees respond that *Rooker-Feldman* is necessarily a factual attack on jurisdiction. But the orders labeling *Rooker-Feldman* as a factual challenge only state (or can be traced to other district court orders stating) that the specific challenge before them was a factual attack. *See e.g. Ellis v. U.S. Bank, N.A.*, No. 16-CV-1750, 2017 U.S. Dist. LEXIS 16003, 2017 WL 477707, at *2 (M.D. Fla. Feb. 6, 2017); *O'Neal v. Bank of Am., N.A.*, No. 11-CV-107, 2012 U.S. Dist. LEXIS 25046, 2012 WL 629817, at *3 (M.D. Fla. Feb. 28, 2012); *Dean v. Wells Fargo Home Mortg.*, No. 10-CV-564, 2011 U.S. Dist. LEXIS 43323, 2011 WL 1515106, at *2 (M.D. Fla. Apr. 21, 2011). Thus, they do not support the proposition that all *Rooker-Feldman* challenges are inherently factual attacks. In any event, because the Appellees did not present any outside evidence challenging the facts underlying Efron's complaint, the difference is largely academic here, and we need not decide it.

state court judgments." *Alvarez v. Att'y Gen. of Fla.*, 679 F.3d 1257, 1262 (11th Cir. 2012). The rule is not prudential but rather "follows naturally from the jurisdictional boundaries that Congress has set for the federal courts. First, federal district courts are courts of original jurisdiction" which "generally cannot hear appeals [a]nd second, only the Supreme Court can 'reverse or modify' state court judgments." *Behr v. Campbell*, 8 F.4th 1206, 1210 (11th Cir. 2021) (citing 28 U.S.C. § 1257(a)). Under *Rooker-Feldman*, "a party losing in state court is barred from seeking what in substance would be appellate review of the state court judgment in a United States District Court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." *Johnson v. De Grandy*, 512 U.S. 997, 1005–06, 114 S. Ct. 2647, 129 L. Ed. 2d 775 (1994).[6]

Following the Supreme Court's direction, we have repeatedly emphasized that the *Rooker-Feldman* doctrine is "limited" and "clearly narrow." *Behr*, 8 F.4th at 1211. It does not prevent a "district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court." *Nicholson v. Shafe*, 558 F.3d 1266, 1274 (11th Cir. 2009) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 293, 125 S. Ct. 1517, 161 L. Ed. 2d 454 (2005)). Nor does *Rooker-Feldman* "block claims that 'require some reconsideration of a decision of a state

6. *Rooker-Feldman* likewise applies to Puerto Rican court judgments. *Federacion de Maestros de Puerto Rico v. Junta de Relaciones del Trabajo de Puerto Rico*, 410 F.3d 17 (1st Cir. 2005); *see also* 28 U.S.C. § 1258.

court' if the plaintiff presents 'some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party.'" *Behr*, 8 F.4th at 1212 (quoting *Target Media Partners v. Specialty Mktg. Corp.*, 881 F.3d 1279, 1288 (11th Cir. 2018)). Indeed, we have stated that *Rooker-Feldman* "will almost never apply." *Id.*

But almost is not never. The question is whether the case has been "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." *Id.* (quoting *Exxon Mobil*, 544 U.S. at 284). This requires a court to determine whether the plaintiff seeks relief from an injury "caused by the judgment itself" or whether he seeks damages for some independent source of injury. *Id.* If the source of the plaintiff's injury is the state-court judgment itself, then *Rooker-Feldman* applies. *See also D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 486–87, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983) (finding that *Rooker-Feldman* barred a plaintiff's claim that the state court had acted "arbitrarily and capriciously" but not the plaintiff's claim that the underlying state rule was unconstitutional); *Alvarez*, 679 F.3d at 1263 (distinguishing a permissible challenge to the underlying constitutionality of a procedure from a barred challenge to the state court's application of that procedure).

Further, as we explained in *Behr*, the *Rooker-Feldman* doctrine does not cease to operate simply because the plaintiff requests something other than the vacatur of a

state decision. Whether a state court judgment caused the plaintiff's injury remains the question for a federal court regardless of the form in which the plaintiff brings his or her claims. *Behr*, 8 F.4th at 1211. Thus, *Rooker-Feldman* "bars all appeals of state court judgments—whether the plaintiff admits to filing a direct appeal of the judgment or tries to call the appeal something else."[7] *Id.*

i. A Claim-By-Claim Analysis

As we explained in *Behr*, a court should follow a claim-by-claim approach when determining whether *Rooker-Feldman* bars a plaintiff's claims from review in a federal district court. *Id.* at 1213. "The question isn't whether the whole complaint seems to challenge a previous state court

7. When the Supreme Court issued its decision in *Feldman*, it noted that Feldman's two claims—that the federal court overturn the state court's judgment and that the federal court declare that the state court acted "arbitrarily and capriciously"—were "inextricably intertwined." *Feldman*, 460 U.S. at 486–87. In *Behr* we explained that "whether a claim is 'inextricably intertwined' with a state court judgment . . . is merely a way of ensuring that courts do not exercise jurisdiction over the appeal of a state court judgment simply because the claimant does not call it an appeal of a state court judgment." *Behr*, 8 F.4th at 1212. We recognize that lower courts have since taken to relying on the formulation of "inextricably intertwined" that we provided in *Casale. See, e.g.*, *Efron v. Candelario*, No. 22-21452-CIV, 2023 U.S. Dist. LEXIS 18537, 2023 WL 2394592, at *4 (S.D. Fla. Feb. 3, 2023). However, our instruction in *Behr* was to avoid relying on any such standard, and to instead prioritize simply asking whether a plaintiff's claim requires a federal district court to review and reject a state court decision. *See Behr*, 8 F.4th at 1211–12.

judgment, but whether resolution of each individual claim requires review and rejection of a state court judgment." *Id.* We thus consider each of Efron's four claims in turn.

In his first count, Efron claimed deprivation of procedural due process rights under § 1983, alleging that the Appellees had recruited Judge Aponte to issue "a corrupt decision" on behalf of Candelario, thereby denying "Efron his right to have the property distribution case heard before a neutral tribunal." Efron requested monetary damages for injury to his business and property as a result of the corrupt decision. On appeal, Efron asserts that neither this claim nor any of his others seek to "reverse and nullify" the Puerto Rican court's judgment. He argues that his allegations "specify a claim for damages independent of the standing Aponte decisions, based on the factual allegations that the two Appellees procured and then utilized state court judgments to obtain by means of fraud and misrepresentation not less than $7,000,000 that should be compensated for in damages or disgorgement." Efron seeks to distinguish his claims from those barred under *Rooker-Feldman* on the grounds that he does not request relief from an injury caused solely by the state court's decision, but rather seeks damages from third party actions.

But Efron's efforts to distinguish his claim are unpersuasive and amount to filing a direct appeal of the state court judgment while simultaneously trying to "call the appeal something else." *Behr*, 8 F.4th at 1211. Although Efron does not explicitly ask us to overturn the state court's judgment, Efron asks us to find that the court's

determination that Candelario is entitled to $50,000 a year is the result of corruption, which amounts to the same thing. *See id.* (recognizing that a request that a district court overturn a state court judgment and a request that the district court declare that the state court acted "arbitrarily and capriciously" by denying the plaintiff's state claim were "one and the same"); *see also Alvarez*, 679 F.3d at 1263 (concluding that a plaintiff's claim that the state court had "arbitrarily ignored material facts" to be a request for the district court to review and reject the state court judgment, which was barred by *Rooker-Feldman* doctrine). Efron essentially conceded as much in his complaint, where he alleged that his due process rights can only be restored "by the abrogation of the Aponte decision." Efron therefore does not seek relief from an injury by a third party or challenge the constitutionality of a state court rule, distinguishable from the state court's application of that rule. *See Feldman*, 460 U.S. at 482–87. Instead, Efron's claim seeks relief from injuries caused by the state-court judgment because the claim at "its heart challenges the state court decision itself"—the money adjudicated to Candelario by the Aponte decisions—"and not the statute or law which underlies that decision." *Behr*, 8 F.4th at 1211. In sum, Efron's due process challenge "boils down to a claim that the state court judgment itself caused him constitutional injury." *Alvarez*, 679 F.3d at 1263.

The rest of Efron's claims are similarly barred by *Rooker-Feldman*. Count II, a "Conspiracy to Deny Civil Rights Under 42 U.S.C. § 1983," alleges that Candelario and Pirallo participated in a conspiracy with Judges

Aponte and Cordero who, acting under the color of state law, agreed to "deny Efron his constitutional rights protected by the Due Process Clause of the Fourteenth Amendment to be heard in an impartial forum and to have equal and fair access to the courts." Efron alleges that the conspirators' objective was to "deny Efron his due process rights so that he could be wrongfully ordered to pay" and seeks $7,000,000 in injury to his business and property as a result of that conspiracy. Count III asserts a claim for civil conspiracy and focuses on the same set of facts. In particular, Efron alleges that Candelario and Pirallo agreed to a quid pro quo between Judges Cordero and Aponte and that the scheme "continues to the present day through Candelario's relentless pursuit of Efron in the courts of Florida and Puerto Rico for money ostensibly owed to Candelario based on Judge Aponte's corruptly procured rulings." Efron seeks the same damages under Count III as Count II. Count IV, which asserts a claim for unjust enrichment, alleges that Candelario and Pirallo were paid money "to which they are not entitled" as a result of the Aponte decisions, resulting in their unjust enrichment at Efron's expense. Efron demanded a "return of the money received" by the Appellees.

Like Count I, Counts II, III, and IV tick all the *Rooker-Feldman* boxes. At heart, they challenge the result of the Aponte decisions themselves, seeking to nullify the decisions' effect by mandating the return of the money the Aponte decisions ordered Efron to pay and explicitly seeking a finding that the Aponte decisions were "wrongful," "corruptly procured" and did not entitle the Appellees to the money they were paid. *See Behr*, 8 F.4th

at 1211. In short, Counts II—IV require a district court to "review" and "reject" the state court decision.

Efron argues that his claims are not covered by *Rooker-Feldman* because he seeks monetary damages solely as compensation for the Appellees' past wrongdoing and thus articulates a claim for relief "independent" of the Aponte decisions. He maintains that the district court erred by (1) principally focusing on the interrelationship of the federal claim to the litigation in the state court, (2) giving no weight to the exclusive damages remedy sought, (3) giving no weight to the fact that the complaint sought no relief to vacate or reverse the state-court judgment, and (4) overlooking the fact that damages could be awarded without nullifying the state court judgment. These arguments fail to persuade.

Efron is correct that a plaintiff's claim for relief does matter. *See id.* at 1214. In *Behr*, we explicitly rejected a proposition from *Goodman* that *Rooker-Feldman* "focus[es] on the federal claim's relationship to the issues involved in the state court proceeding," to the exclusion of "the type of relief sought by the plaintiff." *Id.* (quoting *Goodman*, 259 F.3d at 1333). But the claim for relief, alone, is not determinative: the question is still whether the substance—if not the form—of a plaintiff's claim requires a district court to "review" and "reject" a state court judgment. *Id.* at 1211. As we said in *Behr*, a request that a state court decision be invalidated is equivalent to a request that the state court be declared to have acted "arbitrarily and capriciously." *Id.* In this case, although Efron does not ask us to overturn the state court's

judgment, there is no distinguishing between the damages that the judges' alleged constitutional violations caused Efron and the state court's disposition of Efron's case. Efron essentially claims that the state court judgment *is* the constitutional issue, and his request for damages would not only explicitly negate the Aponte decision's effect to date but would also (as he intends) "deter [the Aponte decision's] future use." Indeed, the complaint at issue here was "brought by [a] state-court loser[] 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." *Behr*, 8 F.4th at 1212 (quoting *Exxon Mobil*, 544 U.S. at 284). We thus conclude that Efron's claims are barred under *Rooker-Feldman* because they amount to a request that the district court review and reject the state court judgment.[8]

IV. CONCLUSION

For the foregoing reasons, we affirm the district court's dismissal of Efron's complaint for lack of subject matter jurisdiction.

AFFIRMED.

8. Efron alleges that the district court made several other errors in its analysis. Because our review of subject matter jurisdiction is dispositive, we need not address the other errors Efron alleges.

APPENDIX B — OPINION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION, FILED MARCH 6, 2023

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 22-21452-CIV-MARTINEZ-BECERRA

DAVID EFRON

Plaintiff,

v.

MADELEINE CANDELARIO AND
MICHELLE PIRALLO DI CRISTINA,

Defendants.

Filed February 3, 2023

ORDER ON DEFENDANTS' MOTION TO DISMISS

THIS CAUSE came before this Court on Defendants' Motion to Dismiss the Complaint with Prejudice for Lack of Subject Matter Jurisdiction and for Failure to State a Claim (the "Motion"), (ECF No. 11). This Court has reviewed the Motion, pertinent portions of the record, and applicable law and is otherwise fully advised of the premises. Accordingly, after careful consideration, the Motion is **GRANTED IN PART** and **DENIED IN**

PART and the Complaint is **DISMISSED WITHOUT PREJUDICE** for the reasons set forth herein.

I. Factual Background

Through this action, Plaintiff seeks what he believes to be his "pound of flesh,"[1] nearly two decades overdue by his account. (*See* Compl. ¶¶ 1–11, ECF No. 1.) Although lacking Shakespearean refinement, the Complaint tells a story fit for adaptation into a telenovela:[2] a vast conspiracy to defraud Plaintiff stemming from his divorce proceedings against Defendant Madeleine Candelario (Plaintiff's ex-wife), spanning multiple decades, and involving Ms. Candelario; certain non-party Puerto Rican judges, if not the entire Puerto Rican judiciary; and Defendant Michelle Pirallo Di Cristina, Ms. Candelario's divorce attorney. (*See id.* ¶ 4.)

Plaintiff, "an attorney with a national law practice," married Ms. Candelario in Puerto Rico in 1983. (*Id.* ¶ 2.) Plaintiff and Ms. Candelario were married between 1983 and 2001. (*Id.* ¶ 39.) On June 22, 1999, Ms. Candelario filed two divorce petitions: one in the Court of First Instance in Puerto Rico and another in the Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida, case number 99-12806-FC 28. (*Id.* ¶ 39; *see* Compl. Ex. 1 at 1, ECF No. 1-2.) In the Miami divorce proceeding, then-Florida Circuit Court Judge Robert Scola, Jr.,

1. *See* William Shakespeare, *The Merchant of Venice* act 4, sc. 1, l. 320.

2. A telenovela is a Spanish-language soap opera.

ordered Plaintiff to pay Ms. Candelario $750,000 as a "lump sum provisional distribution of marital assets . . . without prejudice to [Plaintiff] to seek reimbursement at the time of the final hearing in Puerto Rico[,]" (the "Miami Divorce Court Order"). (Compl. ¶ 2.) Plaintiff tendered the $750,000 to Ms. Candelario pursuant to the Miami Divorce Court Order. (*Id.*) On June 4, 2001, the divorce decree was finalized. (*Id.* ¶ 41.) On August 26, 2002, the Miami divorce court issued an order for change of venue to Puerto Rico. (*Id.* ¶¶ 2, 42.)

Without any reference to when, Plaintiff alleges that, following her divorce, Ms. Candelario started "co-habiting with Charles Cordero, then a Puerto Rico appellate court judge." (*Id.* ¶ 46.) Plaintiff alleges that "[b]ecause [Judge] Cordero was a member of the Puerto Rican judiciary, [Ms.] Candelario . . . had a powerful conduit through which [Ms. Pirallo] could illegally manipulate the transferred property distribution proceedings and the Puerto Rican courts to enrich herself at [Plaintiff's] expense. (*Id.* ¶ 4.) In short, Plaintiff alleges that Ms. Candelario, Ms. Pirallo, and Judge Cordero "joined in a scheme and conspiracy to deny [Plaintiff] his civil and due process rights in the Puerto Rican courts by exerting influence over the ongoing court proceedings relating to" the divorce proceedings. (*Id.* ¶ 5.) Because, however, "[Judge] Cordero could not directly interfere in the case between [Plaintiff] and [Ms.] Candelario before the court in Puerto Rico, the scheme needed to recruit another Puerto Rican judge to manipulate the divorce proceedings to ensure that [Plaintiff] would be denied due process . . . ." (*Id.* ¶ 7.)

To that end, Plaintiff alleges that Judge Nestor Aponte Hernandez was the "perfect candidate" to join the fraudulent scheme because Judge Aponte was also an appellate judge in Puerto Rico and Judge Aponte's brother, Jorge Aponte Hernandez, faced public corruption charges at the time. (*Id.* ¶ 8.) Plaintiff alleges that, in exchange for Judge Cordero providing Mr. Aponte with "legal machinations to facilitate his efforts to avoid justice" by ruling "in favor of the criminally indicted brother[,]" Judge Aponte would give "corruptly favorable and legally suspect financial rulings for the benefit of [Judge] Cordero's girlfriend, [Ms.] Candelario . . . ." (*Id.* ¶¶ 8–9.) Plaintiff neatly summarizes this scheme as a "classic *quid pro quo*: I save your brother and you help me and my girlfriend." (*Id.* ¶ 10.) Plaintiff alleges that the scheme "was attended and facilitated by [Defendants] through a coordinated series of sham court filings and representations with [Judge] Cordero and [Judge] Aponte." (*Id.* ¶¶ 9, 11.) To that end, Plaintiff alleges that Ms. Pirallo's "court filings opened the way to [Plaintiff's] finances, while Judge Aponte would place his robe-clad foot in the door to ensure it stayed open." (*Id.* ¶ 11.)

In March 2004, Mr. Aponte, then a Puerto Rican government official, was indicted on public corruption charges. (*Id.* ¶ 12.) Mr. Aponte moved to dismiss the criminal indictment, and the trial court denied the motion. (*See id.*) In 2004, a panel of the Puerto Rican Court of Appeals (without Judge Cordero) affirmed the denial of the motion to dismiss. (*Id.*; Compl. Ex. 5 at 10–14, ECF No. 1-6); *see also Puerto Rico v. Aponte Hernandez*, No. KLCE0301441, 2004 WL 1136645, at *12–13 (P.R. Cir.

Mar. 17, 2004). "A few months later," Mr. Aponte again moved to dismiss the criminal indictment, and the trial court again denied the motion. (Compl. ¶ 13.) Mr. Aponte appealed the denial of his second motion to dismiss, and in January 2005, another panel of the Puerto Rican Court of Appeals found in Mr. Aponte's favor in a per curiam opinion—this time, Judge Cordero was on the panel. (*Id.* ¶¶ 13, 19; Compl. Ex. 6 at 10–13, ECF No. 1-7); *see also Puerto Rico v. Aponte Hernandez*, No. KLCE0401289, 2005 WL 602892, at *6 (P.R. Cir. Jan. 28, 2005). This, Plaintiff alleges, shows that Judge Cordero "was able to hold up his end of the bargain to Judge Aponte." (Compl. ¶ 14.) Ultimately, Mr. Aponte was not found guilty, and he subsequently filed an unsuccessful lawsuit against the prosecution for alleged malicious prosecution. (*Id.* ¶ 16.)

Then,"[d]ays after" Mr. Aponte's appeal was decided in his favor by, as Plaintiff alleges, "[Judge] Cordero's panel, [Judge Cordero's] girlfriend and co-inhabitant, [Ms.] Candelario, through her attorney [Ms.] Pirallo, filed a motion with the trial court in San Juan requesting a $50,000 monthly 'advance' on her share of the undetermined marital assets from her former marriage to [Plaintiff]." (*Id.* ¶ 17.) Plaintiff states that her request was more than double the request she made before the case was transferred to Puerto Rico. (*Id.* ¶ 17 n.1.) Plaintiff alleges that this new request was "unprompted by any change in fact or law, was facially contrary to the Florida court order, and faced no legitimate prospect of success." (*Id.* ¶ 17.) But, as Plaintiff alleges, "[i]t did not matter." (*Id.*) Plaintiff alleges that Defendants' request for $50,000 advances was "not to succeed in the trial court, but to set

the stage for an appeal of the trial court's expected denial of their motion, so that the case would eventually land before Judge Aponte . . . whose brother's fate hung in the balance depending on the decision of [Judge] Cordero's appellate panel." (*Id.*)

Plaintiff alleges that the Puerto Rican Court of First Instance denied Ms. Candelario's Motion and Ms. Candelario appealed. (*Id.* ¶ 20.) "In an opinion authored by Judge Aponte himself," Plaintiff alleges, "the appellate panel reviewing [Ms.] Candelario's far-fetched demand for more money from [Plaintiff] was able to complete the *quid pro quo*." (*Id.* (emphasis removed).) The Complaint refers to two opinions Judge Aponte authored in the subject appeal: a January 31, 2006, opinion, (Compl. Ex. 7, ECF No. 1-8); *Candelario del Moral v. Efron*, Nos. KLCE0500605, KLCE0500616, 2006 PR App. LEXIS 251, 2006 WL 536597 (P.R. Cir. Jan. 31, 2006), and a February 16, 2006, opinion, (Compl. Ex. 8, ECF No. 1-9); *Candelario del Moral v. Efron*, Nos. KLCE0500605, KLCE0500616, 2006 PR App. LEXIS 444, 2006 WL 1044530 (P.R. Cir. Feb. 16, 2006). Plaintiff argues that the January 31, 2006, opinion and February 16, 2006, amended opinion (collectively, the "Aponte Opinions") finalized the alleged fraud scheme against him by awarding Defendants' requested $50,000 advances. "The goal of the scheme and conspiracy was achieved: denying [Plaintiff] due process and access to the courts to ensure he was powerless to stop the court-enforced theft." (Compl. ¶ 21.) As Plaintiff alleges, "Judge Aponte thus fulfilled his end of the *quid pro quo*, abusing his judicial office to enrich [Ms.] Candelario and [Judge] Cordero." (*Id.* ¶ 54.)

Plaintiff alleges that "[t]he scheme was wildly successful" because Mr. Aponte was free, and Defendants have "seized approximately $7 million" from Plaintiff. (*Id.* ¶ 22.) Plaintiff alleges that the Aponte Opinions "remain in effect and continue to damage [Plaintiff] every day." (*Id.* ¶ 54.) And Plaintiff alleges that the Aponte Opinions were final as he has "no ability to overturn the decision[s]." (*Id.* ¶ 58.) To be sure, Plaintiff alleges that the scheme is "still in operation to this very day[,]" (*id.* ¶ 23), and "cloak[ed]" with "the armor of legal force[,]" (*id.* ¶ 56). Plaintiff states that Defendants "continue to use the corrupt Aponte [Opinions] as both sword and shield in their ongoing effort to rob [him]." (*Id.* ¶ 58.) Defendants' use of the Aponte Opinions, Plaintiff alleges, has denied his due process rights to this day. (*Id.* ¶ 62.) To continue their scheme, Plaintiff alleges that they have "sought seemingly endless continuances, continuously sought recusal of judges, and engaged in a deliberate scheme to delay in the courts of Puerto Rico." (*Id.* ¶ 63.) As Plaintiff states, "[u]ntil [Plaintiff's] due process rights are restored by the *abrogation of the Aponte* [*Opinions*], [Defendants] will continue to have free reign to use the corrupt orders in that case to enlist the courts of Florida and Puerto Rico as unwitting co-conspirators in their illegal scheme." (*Id.* ¶ 66 (emphasis added).) Indeed, Plaintiff alleges that this conspiracy is so far-reaching that this Court, and not an appropriate appellate court, "is the only venue in which Plaintiff can receive fair and impartial justice." (*Id.* ¶ 27.)

By this action, Plaintiff hopes to end the alleged fraud scheme and compel this story's denouement. In his attempt to do so, Plaintiff pleads four claims for relief

against Defendants: deprivation of procedural due process under 42 U.S.C. § 1983 (Count I); conspiracy to deny civil rights under § 1983 (Count II); civil conspiracy (Count III); and unjust enrichment (Count IV). (*Id.* at 16–20.) Now, Defendant moves to dismiss the Complaint with prejudice for lack of subject matter jurisdiction and for failure to state plausible claims for relief. (*See generally* Mot., ECF No. 11.)

II. Legal Standard

A pleading must include "a short and plain statement of the claim showing that the pleader is entitled to relief . . . ." Fed. R. Civ. P. 8(a)(2). To survive a motion to dismiss for failure to state a claim, a complaint must contain "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face . . . .'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)). While a complaint "does not need detailed factual allegations," it must provide "more than labels and conclusions" or "a formulaic recitation of the elements of a cause of action . . . ." *Twombly*, 550 U.S. at 555.

A court considering a Rule 12(b) motion is generally limited to the facts contained in the complaint and the exhibits attached thereto, including "documents referred to in the complaint which are central to the claim." *See Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 959 (11th Cir. 2009) (citing *Brooks v. Blue Cross & Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1369 (11th Cir. 1997) (per

curiam)). When ruling on a motion to dismiss, a court must accept the plaintiff's allegations as true and evaluate all plausible inferences derived from those facts in the plaintiff's favor. *Chaparro v. Carnival Corp.*, 693 F.3d 1333, 1335 (11th Cir. 2012); *St. Joseph's Hosp., Inc. v. Hosp. Corp. of Am.*, 795 F.2d 948, 954 (11th Cir. 1986). Courts are, nevertheless, "not bound to accept as true a legal conclusion couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286, 106 S. Ct. 2932, 92 L. Ed. 2d 209 (1986) (citing *Briscoe v. LaHue*, 663 F.2d 713, 723 (7th Cir. 1981)). "Factual allegations must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Twombly*, 550 U.S. at 555–56 (cleaned up).

Motions under Rule 12(b)(1) attached this Court's subject matter jurisdiction to consider the case before it. *See* Fed. R. Civ. P. 12(b)(1). Motions to dismiss for lack of subject matter jurisdiction "can be based upon either a facial or factual challenge to the complaint." *McElmurray v. Consol. Gov't of Augusta-Richmond Cnty.*, 501 F.3d 1244, 1251 (11th Cir. 2007) (citing *Williamson v. Tucker*, 645 F.2d 404, 412 (5th Cir. May 1981)). Where the attack on the complaint is facial, "the plaintiff is left with safeguards similar to those retained when a Rule 12(b)(6) motion to dismiss for failure to state a claim is raised." *Id.* (quoting *Williamson*, 645 F.2d at 412). A facial attack on a complaint requires a court to look and see if the plaintiff "sufficiently alleged a basis of subject matter jurisdiction, and the allegations in his complaint are taken as true for the purposes of the motion." *Lawrence v. Dunbar*, 919 F.2d

1525, 1529 (11th Cir. 1990) (quoting *Menchaca v. Chrysler Credit Corp.*, 613 F.2d 507, 511 (5th Cir. 1980)). When the attack on a complaint is factual, however,

> the trial court may proceed as it never could under 12(b)(6) or Fed. R. Civ. P. 56. Because at issue in a factual 12(b)(1) motion is the trial court's jurisdiction—its very power to hear the case—there is substantial authority that the trial court is free to weigh the evidence and satisfy itself as to the existence of its power to hear the case. In short, no presumptive truthfulness attaches to plaintiff's allegations, and the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims.

Garcia v. Copenhaver, Bell & Assoc., 104 F.3d 1256, 1261 (11th Cir. 1997) (quoting *Lawrence*, 919 F.2d at 1529). While Defendants couch their 12(b)(1) motion as a factual attack, the universe of facts upon which the Motion relies is contained in the Complaint and attachments thereto; therefore, the Motion presents a facial attack, and this Court must take the allegations in the Complaint as true. *See Lawrence*, 919 F.2d at 1529.

III. Discussion

Defendant moves to dismiss the Complaint with prejudice because (1) this Court lacks subject matter jurisdiction over this action under the *Rooker-Feldman* doctrine, (Mot. 7–10); (2) the claims in the Complaint are

time-barred, (*id.* at 10–15); and (3) Plaintiff failed to state causes of action under § 1983, (*id.* at 15–24). In opposition, Plaintiff responds that (1) the *Rooker-Feldman* doctrine does not apply to this action because the Complaint seeks to "have his due process rights vindicated, not to have this Court sit in review of the Puerto Rican Courts[,] (Resp. 5–7, ECF No. 18); (2) his claims are not time-barred because the events alleged in the Complaint are "continuing acts that extend the statute of limitations[,]" (*id.* at 8–10); and (3) the Complaint sufficiently states plausible claims for relief, (*id.* at 10–16).

The *Rooker-Feldman* doctrine is derived from *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983). The *Rooker-Feldman* doctrine precludes district courts "from exercising appellate jurisdiction over final state-court judgments." *Nicholson v. Shafe*, 558 F.3d 1266, 1268 (11th Cir. 2009) (quoting *Lance v. Dennis*, 546 U.S. 459, 463, 126 S. Ct. 1198, 163 L. Ed. 2d 1059 (2006)). Specifically, the doctrine 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. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 125 S. Ct. 1517, 161 L. Ed. 2d 454 (2005). "The doctrine extends not only to constitutional claims presented or adjudicated by a state court, but also to claims that are 'inextricably intertwined' with a state court judgment." *Siegel v. LePore*, 234 F.3d 1163, 1172 (11th Cir. 2000) (en

banc) (citing *Feldman*, 460 U.S. at 482 n.16). "A claim is inextricably intertwined if it would 'effectively nullify' the state court judgment . . . or it 'succeeds only to the extent that the state court wrongly decided the issues." *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009) (citation omitted) (first citing *Powell v. Powell*, 80 F.3d 464, 467 (11th Cir. 1996); and then citing *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001)).

After reviewing Plaintiff's claims in the contexts of his factual allegations, this Court finds that all the claims in the Complaint are inextricably intertwined with the validity—or, rather, the alleged invalidity—of the Aponte Opinions both of which were issued in connection with enforcing the finalized divorce decree. (*See* Compl. ¶ 66); *Casale*, 558 F.3d at 1261 (affirming district court's dismissal for lack of subject matter jurisdiction under *Rooker-Feldman* doctrine where plaintiff sought to invalidate post-divorce decree state-court order). Here, despite attempting to argue that he did not file this action to challenge the Aponte Opinions, Plaintiff—in the same paragraph—states that "[h]e is suing based on the corruption that invaded those rulings and led to his being defrauded." (Resp. 5.) As the Complaint unequivocally sets forth, "until [Plaintiff's] due process rights are restored by *the abrogation of the Aponte* [*Opinions*], [Defendants] will continue to have free reign to use the corrupt orders in that case to enlist the courts of Florida and Puerto Rico as unwitting co-conspirators in their illegal scheme." (*Id.* ¶ 66 (emphasis added).) Plaintiff is precisely "the sort of 'state-court loser[]' the *Rooker-Feldman* doctrine was designed to turn aside" as granting Plaintiff relief in this

action would necessarily require this Court "effectively nullify[ing]" the Aponte Opinions. *See Casale*, 558 F.3d at 1260–61 (first quoting *Exxon*, 544 U.S. at 284; and then quoting *Powell*, 80 F.3d at 467).

In his attempt to avoid dismissal under the *Rooker-Feldman* doctrine, Plaintiff relies on decisions from the Third and Seventh Circuits that recognize a fraud exception to the doctrine, namely *Davit v. Davit*, 173 F. App'x 515 (7th Cir. 2006), and *Great Western Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159 (3d Cir. 2010). In *Davit*, the Seventh Circuit held that "the *Rooker-Feldman* doctrine does not apply to claims that a 'defendant in a civil rights suit "so far succeed in corrupting the state judicial process as to obtain a favorable judgment."'" *Davit*, 173 F. App'x at 517 (citing *Loubser v. Thacker*, 440 F.3d 439, 441 (7th Cir. 2006)). Likewise, in *Great Western*, the plaintiff's claims involved the defendants' alleged procurement of state court judgments based on the defendants' fraudulent misrepresentations. *See Great W.*, 615 F.3d at 167–68, 173. There, the Third Circuit held that "[t]he fact that [the d]efendants' actions, rather than the state-court judgments, were the source of [the plaintiff's] injuries is alone sufficient to make *Rooker-Feldman* inapplicable here." *Id.* at 173. But, the Eleventh Circuit has routinely rejected such a "fraud exception" to the *Rooker-Feldman* doctrine. *E.g.*, *Casale*, 558 F.3d at 1261 ("Other circuits have recognized an exception to the [*Rooker-Feldman*] doctrine where the state court judgment is 'void *ab initio* due to the state court's lack of jurisdiction,' . . . but our circuit has never adopted that exception." (citations omitted)); *Ferrier v. Cascade Falls Condo. Ass'n*, 820 F.

App'x 911, 914 (11th Cir. 2020) ("[W]e have not recognized a fraud exception to the *Rooker-Feldman* doctrine, and we decline to do so now.") In fact, the Eleventh Circuit has expressly stated, albeit in an unpublished decision, that "such an exception would effectively gut the doctrine by permitting litigants to challenge any state-court judgment in federal court merely by alleging that 'fraud' occurred during the state-court proceedings." *Ferrier*, 820 F. App'x at 914. This Court finds the reasoning in *Ferrier* persuasive and does not now accept Plaintiff's invitation to recognize a fraud exception to the *Rooker-Feldman* doctrine. Therefore, the *Rooker-Feldman* doctrine applies to Plaintiff's claims, notwithstanding his "intent to invoke an extrinsic fraud exception to that doctrine." *See Wint v. BAC Home Loans Serv., LP*, No. 15-CV-80376, 2015 U.S. Dist. LEXIS 78456, 2015 WL 3772508, at *2 (S.D. Fla. June 17, 2015).

Plaintiff's requested relief, "actual damages," (Compl. 20), or "monies wrongfully received from [Plaintiff,]" (*see, e.g.*, *id.* ¶ 92), are rooted in the Aponte Opinions, which Plaintiff repeatedly describe as "corrupt rulings[,]" (*see, e.g.*, *id.* ¶ 80). The only way Plaintiff could be damaged is if the Aponte Opinions (ordering Plaintiff to pay Ms. Candelario $50,000 advances) were wrongful. While Plaintiff argues that his claims do not require this Court to find the Aponte Opinions were wrongful because he sued Defendants for their individual wrongdoing, this argument holds no water: Were this Court to grant Plaintiff's requested relief, it would necessarily follow that the Aponte Opinions were entered in error. Moreover, this Court finds that Plaintiff had a reasonable opportunity

to raise their claim in the state-court proceeding, especially considering the Aponte Opinions were entered approaching two decades ago. *See Casale*, 558 F.3d at 1260. Accordingly, this Court lacks jurisdiction over this action. The Motion is, therefore, granted in part in this respect, and the Complaint is dismissed without prejudice. *See Scott v. Frankel*, 606 F. App'x 529, 533 ("[A] *Rooker-Feldman* dismissal is a dismissal for lack of subject matter jurisdiction, and '[a] dismissal for lack of subject matter jurisdiction is not a judgment on the merits and is entered without prejudice.'" (citing *Stalley v. Orlando Reg'l Healthcare Sys.*, 524 F.3d 1229, 1232 (11th Cir. 2008))). Because this Court has no subject matter jurisdiction over Plaintiff's claims, this Court need not reach Defendants' remaining arguments in support of dismissal, so the Motion is denied in part as to those arguments.

IV. CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. The Motion, (ECF No. 11), is **GRANTED IN PART** as set forth herein.

2. The Complaint, (ECF No. 1), is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

3. The Clerk is **DIRECTED** to **CLOSE** this case and **DENY** all pending motions as **MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida, this 3rd day of February, 2023.

/s/ Jose E. Martinez
JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

APPENDIX C — DENIAL OF REHEARING OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, FILED SEPTEMBER 26, 2024

IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 23-10691

DAVID EFRON,

Plaintiff-Appellant,

versus

MADELEINE CANDELARIO,
MICHELLE PIRALLO DI CRISTINA,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cv-21452-JEM

Filed September 26, 2024

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

Before WILSON, GRANT, and LAGOA, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having

requested that the Court be polled on rehearing en banc. FRAP 35. The Petition for Panel Rehearing also is DENIED. FRAP 40.