# United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
**FILED**
October 8, 2025
Lyle W. Cayce
Clerk

No. 25-30074

LARRY ENGLISH,

*Plaintiff—Appellant*,

*versus*

VICKI CROCHET; ROBERT BARTON; TAYLOR PORTER BROOKS & PHILLIPS, L.L.P.,

*Defendants—Appellees*.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:24-CV-119

Before ELROD, *Chief Judge*, and CLEMENT and HAYNES, *Circuit Judges*.

JENNIFER WALKER ELROD, *Chief Judge*:

Plaintiff–Appellant Larry English represented Sharon Lewis in a multi-year employment discrimination lawsuit against several Louisiana State University (LSU) defendants, which was dismissed in part at the motions stage and ultimately resolved against Lewis after a jury verdict. *Lewis v. Bd. of Supervisors of La. State Univ. & Agric. & Mech. Coll.*, 134 F.4th 286, 290 & n.1 (5th Cir. 2025).

In her lawsuit, Lewis named as defendants Vicki Crochet and Robert Barton, attorneys at the Taylor Porter law firm who served as outside counsel

to LSU's Board of Supervisors. English then filed this lawsuit against Defendants–Appellees Crochet, Barton, and their law firm for state law torts in federal court under diversity jurisdiction. The district court dismissed each of those claims with prejudice after determining that English's defamation claim was barred by the *Rooker–Feldman* doctrine and his intentional infliction of emotional distress claim was inadequately pleaded.

English appeals, arguing that the *Rooker–Feldman* doctrine is inapplicable and that he adequately pleaded "extreme and outrageous" conduct by Defendants–Appellees. Because we agree with English's first argument but disagree with his second, we AFFIRM IN PART and VACATE IN PART.

## I

In 2013, LSU employee Sharon Lewis reported students' allegations of sexual assault and harassment by football coach Les Miles to senior LSU officials, prompting a Title IX investigation. As outside counsel to the LSU Board of Supervisors, Vicki Crochet and Robert Barton were appointed to lead the investigation. Lewis alleged that Crochet and Barton engaged in misconduct during the course of that investigation.

In April 2021, Lewis, represented by English, filed lawsuits in Louisiana state and federal court. The federal court action alleged violations of the federal RICO statute. The state court action alleged violations of the Louisiana Racketeering Act. In the state court proceedings, Crochet and Barton pursued sanctions against English and Lewis. The state court awarded $330,461.97 in sanctions jointly and severally against English and Lewis for

> making allegations of criminal conduct against [Crochet and Barton] which are not based in fact or law, failing to conduct a reasonable investigation regarding the RICO claims asserted

> against [Crochet and Barton], making sensational and unsupported public statements to the media on multiple occasions, fabricating evidence to support their baseless claims against [Crochet and Barton] (i.e., Plaintiff's speculative interpretation of Taylor Porter's invoices); filing pleadings and employing abusive litigation tactics for the improper purposes of causing unnecessary delay, to harass, needlessly increasing the cost of litigation, and needlessly instigating and perpetuating unmerited litigation; and making unfounded allegations of racist and sexist conduct and bias against opposing counsel and this Court in multiple venues in an effort to disrupt the efficient and just disposition of this proceeding.

One basis for the court's award of sanctions in Lewis's lawsuit was English's portrayal of Taylor Porter billing entries in his complaint. For example, English portrayed a time entry as "Email on the status of scheme to hide Miles investigation" when the actual time entry by Crochet was "Correspondence with Ginsberg, Segar."[1] The court stated at the Article 863 hearing that "there has to be almost a hundred entries in Taylor Porter time record entries, that say nothing about anything to do in furtherance of any scheme to hide anything, and yet, that's—that's what it's alleged to be."

English thereafter filed the instant lawsuit against Crochet, Barton, and their law firm (collectively, Defendants–Appellees), asserting four claims under Louisiana law: (1) defamation; (2) negligent infliction of emotional distress (NIED); (3) intentional infliction of emotional distress (IIED); and (4) civil conspiracy. The district court dismissed all claims with prejudice under Federal Rule of Civil Procedure 12(b)(6). This appeal

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[1] Peter Ginsberg was football coach Les Miles's counsel, and Miriam Segar was an employee in the LSU athletics department. *Lewis v. La. State Univ.*, 2023 WL 2504253, at *9–10 (M.D. La. Mar. 14, 2023), *rev'd and remanded sub nom. Lewis v. Crochet*, 105 F.4th 272 (5th Cir. 2024).

followed. Our review is *de novo*. *Jim S. Adler, P.C. v. McNeil Consultants, L.L.C.*, 10 F.4th 422, 426 (5th Cir. 2021).

II

We address each claim *seriatim*. First, the district court dismissed with prejudice[2] English's defamation claim solely on the basis of the *Rooker–Feldman* doctrine.[3]

"Reduced to its essence, the *Rooker–Feldman* doctrine 'holds that inferior federal courts do not have the power to modify or reverse state court judgments'" except when authorized by Congress. *Union Planters Bank Nat'l Ass'n v. Salih*, 369 F.3d 457, 462 (5th Cir. 2004) (quoting *Reitnauer v. Tex. Exotic Feline Found., Inc.*, 152 F.3d 341, 343 (5th Cir.1998)). But the Supreme Court has explained that the doctrine is a narrow one, "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

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[2] At the outset, the district court erred by dismissing the claim with prejudice. The *Rooker–Feldman* doctrine is jurisdictional. *Truong v. Bank of Am., N.A.*, 717 F.3d 377, 381 (5th Cir. 2013). Accordingly, the claim should have been dismissed without prejudice. *See, e.g.*, *Fort Bend County v. U.S. Army Corps of Eng'rs*, 59 F.4th 180, 188 (5th Cir. 2023) ("When reviewing a district court's grant of a Rule 12(b)(1) and a Rule 12(b)(6) motion to dismiss, we start with the jurisdictional challenge before addressing the challenge on the merits."); *Mitchell v. Bailey*, 982 F.3d 937, 944 (5th Cir. 2020), *as revised* (Dec. 30, 2020) ("A court's dismissal of a case resulting from a lack of subject matter jurisdiction is 'not a determination of the merits and does not prevent the plaintiff from pursuing a claim in a court that does have proper jurisdiction.'" (quoting *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001)).

[3] The *Rooker–Feldman* doctrine derives from two Supreme Court cases, *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

English's defamation claim is based on allegations that Defendants–Appellees, through their counsel, "published statements in federal and state court that Larry English . . . fabricated evidence when he filed pleadings on behalf of his client Sharon Lewis." He further alleges that Defendants–Appellees "specifically published statements that Lewis [sic] description of wire and mail communications between [Defendants–Appellees] and Les Miles lawyer [sic] . . . were fabricated." The district court concluded that "the crux of Plaintiff's defamation claim[] is that the state court sanctions rulings were erroneous," which "essentially amounts to a challenge in federal court over a state court sanction order" barred by *Rooker–Feldman*.

We disagree. It is true that one of the many reasons the state court imposed sanctions was its finding that English had fabricated evidence. But that fact is not dispositive. The Supreme Court has cautioned that, in light of the "narrow ground" that *Rooker–Feldman* occupies, it does not prohibit a plaintiff from "present[ing] 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 Corp.*, 544 U.S. at 284, 293 (quoting *GASH Assocs. v. Rosemont*, 995 F.2d 726, 728 (7th Cir. 1993)). That principle makes sense, particularly given the Supreme Court's admonition that *Rooker–Feldman* does not "stop 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." *Id.* at 293.

The key inquiry, then, is the source of the injury alleged in the federal complaint. If the injury stems from the state court decision itself, then *Rooker–Feldman* bars federal jurisdiction. But if the injury arises from the

defendant's actions, the plaintiff asserts an independent claim not subject to *Rooker–Feldman*. *Truong*, 717 F.3d at 382–83.

Here, English contends that his injuries were caused not by the state court's sanctions order itself, but by the Defendants–Appellees' conduct (through their counsel) during the sanctions proceedings. As Defendants–Appellees readily acknowledge, English "seeks damages for defamation arising out of alleged false and defamatory statements made by counsel for the . . . Defendants that allegedly were the basis for the issuance of the sanctions judgment." English does not seek to overturn the state-court judgment; rather, he pursues damages for injuries caused by Defendants–Appellees' allegedly defamatory statements, through counsel, made during those proceedings. While Defendants–Appellees' alleged conduct may have led to the state court judgment, which in turn caused additional harm, the *Rooker–Feldman* doctrine does not apply. As one of our sister circuits has stated, although the damages recoverable through an independent claim may be limited by preclusion principles, "[t]he *Rooker–Feldman* doctrine does not . . . turn all disputes about the preclusive effect of judgments into matters of federal subject-matter jurisdiction." *Freedom Mortg. Corp. v. Burnham Mortg., Inc.*, 569 F.3d 667, 671 (7th Cir. 2009); *see Lance v. Dennis*, 546 U.S. 459, 466 (2006) ("*Rooker–Feldman* is not simply preclusion by another name.").

Defendants–Appellees counter that even if English's defamation claim does not directly challenge the state court judgment, it is "inextricably intertwined" with that judgment and thus barred by *Rooker–Feldman*. However, our court and numerous federal circuit courts have made clear that the "inextricably intertwined" standard does not expand the core holding of *Rooker* or *Feldman*. *See, e.g.*, *Truong*, 717 F.3d at 384–85; *Davani v. Va. Dep't of Transp.*, 434 F.3d 712, 719 (4th Cir. 2006); *Hoblock v. Albany Cnty. Bd. of Elections*, 422 F.3d 77, 86–87 (2d Cir. 2005); *see also McKithen v. Brown*, 481

F.3d 89, 97 n.7 (2d Cir. 2007) (noting that "independent claim" and "inextricably intertwined" are simply descriptive labels devoid of "substantive content"). Having found English's claim "independent," we also reject Defendants–Appellees' invocation of the "inextricably intertwined" label.

Because the source of the injury asserted by English's complaint is Defendants–Appellees' conduct, not the state court judgment, Defendants–Appellees' *Rooker–Feldman* arguments fail. *See Avdeef v. Royal Bank of Scotland*, 616 F. App'x 665, 673 (5th Cir. 2015) ("If the plaintiff claims damages for injuries caused by the defendants' actions—even those occurring during litigation—rather than injuries arising from a state-court judgment itself, the federal suit is not barred by *Rooker–Feldman*." (citing *Truong*, 717 F.3d at 383)).

Defendants–Appellees raise five other grounds to dismiss English's defamation claim that were not reached by the district court. Given the fact-bound nature of many of these grounds, we vacate the district court's dismissal of this claim and remand to the district court for consideration of these arguments in the first instance. *See R.J. Reynolds Tobacco Co. v. FDA*, 96 F.4th 863, 868 (5th Cir. 2024).

## III

Next, the district court dismissed English's IIED claims, which were based on Defendants–Appellees: (1) accusing English of fabricating evidence; (2) calling English "sophomoric" and "ignorant" in open court and in pleadings; and (3) causing English to undergo a Judgment Debtor Examination.

In order to establish an IIED claim under Louisiana law, a plaintiff must show: "(1) that the conduct of the defendant was extreme and outrageous; (2) that the emotional distress suffered by the plaintiff was

severe; and (3) that the defendant desired to inflict severe emotional distress or knew that severe emotional distress would be certain or substantially certain to result from his conduct." *White v. Monsanto Co.*, 585 So.2d 1205, 1209 (La. 1991). "The conduct must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community." *Id.* "Liability does not extend to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities." *Id.*

The district court correctly determined that the statements at issue here did not meet this standard. *See, e.g.*, *LaBove v. Raftery*, 802 So.2d 566, 578 (La. 2001) (conduct not extreme and outrageous where supervisor "cursed" plaintiff, called her names, and falsely accused her of making mistakes). English's claim based on the Judgment Debtor Examination fails because there is no IIED liability "where the actor has done no more than to insist upon his legal rights in a permissible way." *White*, 585 So.2d at 1210. Accordingly, we affirm the district court's dismissal of English's IIED claims.[4]

IV

Finally, the district court dismissed English's conspiracy claim because: (1) under Louisiana law, a conspiracy claim requires a cognizable underlying tort; and (2) all alleged tort claims had already been dismissed.

In light of our vacatur of the defamation claim dismissal, we likewise vacate the dismissal of the conspiracy claim.

Finally, given our vacatur of the district court's dismissal of English's defamation and conspiracy claims, we also vacate the district court's denial

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[4] English does not challenge the district court's dismissal of his NIED claim.

of leave to amend the complaint based on futility. *Jim S. Adler, P.C.*, 10 F.4th at 430.

V

For the foregoing reasons, the district court's judgment is AFFIRMED IN PART and VACATED IN PART. This matter is REMANDED for proceedings consistent with this opinion. All remaining pending motions carried with this case are DENIED as moot.