

United States Court of Appeals for the Fifth Circuit

No. 25-11021
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 13, 2026

Thomas B. Plunkett, III
Clerk

WENDELL REESE; KAREN REESE,

Plaintiffs—Appellants,

versus

WELLS FARGO BANK, N.A.; BRECKENRIDGE PROPERTY FUND
2016 LLC; BANK OF THE WEST; ROBERT FORSTER, *Substitute*
Trustee; BARRETT DAFFIN FRAPPIER TURNER & ENGEL, L.L.P.;
US BANK NATIONAL ASSOCIATION,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:25-CV-26

Before STEWART, RICHMAN, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Wendell and Karen Reese appeal the dismissal of their civil action as barred by res judicata. We review de novo whether the district court erred in dismissing the complaint for failure to state a claim under Federal Rule of

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Civil Procedure 12(b)(6). *See Sacks v. Tex. S. Univ.*, 83 F.4th 340, 344 (5th Cir. 2023). The res judicata effect of the judgment in the previous case, *Reese v. Wells Fargo Bank NA*, No. 3:23-cv-524-N-BN, 2024 WL 3927886 (N.D. Tex. Aug. 5, 2024), *adopted by* 2024 WL 3933296 (N.D. Tex. Aug. 23, 2024) (*Reese II*), is a question of law we review de novo. *See id.* They do not dispute that the district court in *Reese II* had jurisdiction and entered a final judgment on the merits.

They argue the district court erred in finding the parties in the two cases were in privity. Here, they added: (1) U.S. Bank National Association, the bank to which Wells Fargo assigned the lien; (2) Bank of the West, which provided a revolving line of credit to Breckenridge based on the property as collateral; (3) Barrett Daffin Frappier Turner & Engel LLP, the law firm retained by Wells Fargo to handle the foreclosure proceedings; and (4) Robert Forster, the substitute trustee who signed the deed transferring the property to Breckenridge at the foreclosure sale. The district court did not err in finding the parties in the two cases were in privity. *See Procter & Gamble Co. v. Amway Corp.*, 376 F.3d 496, 499 (5th Cir. 2004).

Next, the Reeses argue the district court erred by not applying *Taylor v. Sturgell*, 553 U.S. 880 (2008). Although the Supreme Court rejected “virtual representation” in *Taylor*, it recognized six exceptions to the rule against nonparty preclusion, including one for parties who have a substantive legal relationship. 553 U.S. at 893-95. The four new defendants in this case have substantive legal relationships with either Wells Fargo or Breckenridge, the defendants in *Reese II*. Thus, the Reeses have not shown the district court erred by not applying *Taylor* or that applying *Taylor* would have resulted in a different outcome. *See Sacks*, 83 F.4th at 344.

The Reeses also argue the district court erred in finding the two cases were based on the same nucleus of operative fact. They have not shown that

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their complaint alleged claims based on actions that occurred after *Reese II* was filed in March 2023. Because both actions concerned the loan on the Reeses' property, the foreclosure, and any possible post-foreclosure relief, the district court did not err in finding the two lawsuits were based on the same nucleus of operative fact, *see OJSC Ukrnafta v. Carpatsky Petrol. Corp.*, 957 F.3d 487, 504 (5th Cir. 2020), or in dismissing their claims as barred by res judicata, *see Sacks*, 83 F.4th at 344.

Further, they argue the district court erred by failing to consider whether their complaint plausibly stated their claims. The res judicata bar was apparent from the instant complaint and the record in *Reese II*, and the Reeses did not challenge the defendants' failure to plead res judicata as an affirmative defense. *See Anderson v. Wells Fargo Bank, N.A.*, 953 F.3d 311, 314 (5th Cir. 2020). Because the claims were subject to the res judicata bar, it was unnecessary for the district court to determine whether the complaint plausibly stated the claims. *See id.*

They also argue the district court abused its discretion in dismissing their complaint without granting them leave to amend. Because they did not move for leave to amend their complaint in the district court and did not state, in the district court or on appeal, what additional facts they would have alleged in an amended complaint to cure any deficiencies, the district court did not abuse its discretion by dismissing their complaint without allowing leave to amend. *See Edionwe v. Bailey*, 860 F.3d 287, 294 (5th Cir. 2017).

Finally, they argue the district court abused its discretion in dismissing their complaint without holding a hearing. Because they did not move for a hearing in the district court and have not cited legal authority to support their argument, they have not shown the district court abused its discretion by not holding a hearing. *See Norman v. Stephens*, 817 F.3d 226, 235 (5th Cir. 2016).

AFFIRMED.