

United States Court of Appeals  
for the Fifth Circuit

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No. 26-50171  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

October 14, 2026

Thomas B. Plunkett, III  
Clerk

MARK ANTHONY ORTEGA,

*Plaintiff—Appellant,*

*versus*

STERN ROCK CAPITAL, L.L.C.; ZACHARY NEMAN,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:25-CV-790

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Before WILLETT, DUNCAN, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:\*

Mark Anthony Ortega, a Texas resident proceeding pro se, appeals the district court's dismissal of his complaint for lack of specific personal jurisdiction. Ortega alleged that defendant Zachary Neman, on behalf of defendant Stern Rock Capital, L.L.C., both located in New York, called Ortega's cell phone several times to offer business financing services in violation of the Telephone Consumer Protection Act and Texas law.

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

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Without conducting an evidentiary hearing, the district court determined that, based on statements in Neman's declaration included with his motion to dismiss, the court did not have to accept as true Ortega's allegations about jurisdiction and that Ortega had to, but did not, submit evidence to make a prima facie showing of jurisdiction.

Applying de novo review, *Douglass v. Nippon Yusen Kabushiki Kaisha*, 46 F.4th 226, 231 (5th Cir. 2022) (en banc), we are persuaded that Neman's declaration did not controvert Ortega's allegations regarding his residence in Texas, the phone calls he received in Texas, or his cell phone number. Accordingly, the district court erred by failing to accept those allegations as true in assessing whether Ortega made a prima facie showing of specific personal jurisdiction. *See Savoie v. Pritchard*, 122 F.4th 185, 190 (5th Cir. 2024). We express no view on that jurisdictional question and leave it to the district court to decide in the first instance. *See Molzan v. Bellagreen Holdings, L.L.C.*, 112 F.4th 323, 337 (5th Cir. 2024).

Accordingly, the order of the district court dismissing for lack of jurisdiction is VACATED, and this case is REMANDED for further proceedings consistent with this order.