NONPRECEDENTIAL DISPOSITION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

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted October 16, 2023*
Decided October 17, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-3261

DEBRA A. CHARLES,
Plaintiff-Appellant,

v.

ANNA-JONESBORO NATIONAL BANK, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Illinois.

No. 22-CV-201-SMY

Staci M. Yandle,
Judge.

O R D E R

Debra Charles appeals the district court's dismissal of her second amended complaint against three banks, several bank employees, and an attorney for failing to state a claim upon which relief can be granted. Because one of Charles's claims is barred

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

by the *Rooker-Feldman* doctrine, we modify the judgment of the district court to reflect that it is dismissed for lack of subject matter jurisdiction. In all other respects, we affirm.

Background

Charles and her late husband operated several businesses and owned properties in Anna and Jonesboro, Illinois. They signed a series of promissory notes from 2003 to 2013 with Anna-Jonesboro National Bank (A-J Bank) and First State Bank of Olmsted (Olmsted Bank). The Charleses filed for Chapter 11 Bankruptcy in 2014 and submitted a schedule listing their assets, which included many businesses and properties. They did not, however, list any legal claim as an asset. The bankruptcy court subsequently converted the bankruptcy petition to Chapter 7, entered an order of discharge in June 2016, and closed the case with a final decree in September 2017.

Five years later, Charles sued A-J Bank, Olmsted Bank, First State Bank of Dongola (Dongola Bank), and several of their employees and officers. In her first amended complaint, Charles alleged that A-J Bank and Olmsted Bank breached their fiduciary duty and committed common-law fraud by altering some promissory notes after they were signed, causing her to file for bankruptcy. As to Dongola Bank, she argued it fraudulently filed a quiet title action against one of her properties after her bankruptcy. The district court dismissed the complaint without prejudice, concluding that Charles was not the real party in interest and so lacked standing to pursue the claims because they remained assets of the bankruptcy estate. It also concluded that the claims about the origination of the notes, which occurred from 2003 to 2013, were filed beyond the (at most) five-year statute of limitations and that the complaint failed to comply with Rules 8(a) and 9(b) of the Federal Rules of Civil Procedure.

Charles filed a second amended complaint, repeating many of her claims and adding more parties. This time, however, Charles cited numerous criminal statutes as the basis for her claims. Most of Charles's claims cited the statute criminalizing bank fraud, 18 U.S.C. § 1344. But she also relied on criminal statutes relating to conspiracy, false statements, embezzlement, and obstruction of justice, as well as a provision of the Uniform Code of Military Justice. The defendants moved to dismiss the complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. The district court granted the motion and dismissed the complaint with prejudice. It concluded that none of the statutes cited by Charles provided a private right of action and that it would be futile to allow Charles to amend her complaint again. Charles appeals.

Analysis

We review a dismissal under Rule 12(b)(6) de novo, accepting all well-pleaded facts as true and viewing them in the light most favorable to Charles. *Peterson v. Wexford Health Sources, Inc.*, 986 F.3d 746, 751 (7th Cir. 2021). To survive a Rule 12(b)(6) motion to dismiss, a plaintiff must provide "a short and plain statement" showing she is entitled to relief. FED. R. CIV. P. 8(a)(2).

Charles first argues that the criminal statutes she relies on create private rights of action. We disagree. Only Congress can create a private right of action to enforce federal law. *Alexander v. Sandoval*, 532 U.S. 275, 286 (2001). Here, the district court correctly concluded that the cited statutes do not expressly provide for a private right of action, and we cannot impliedly create one because the text of the statutes does not demonstrate that Congress intended to create a private right and remedy. *See Ind. Prot. and Advoc. Servs. v. Ind. Fam. and Soc. Servs. Admin.*, 603 F.3d 365, 375 (7th Cir. 2010) (en banc). Indeed, it is rare that courts imply a private right of action into criminal statutes because they are usually for the benefit of the general public, not a particular class. *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979); *Cannon v. Univ. of Chi.*, 441 U.S. 677, 690–93 (1979).

Next, Charles argues that the district court should not have dismissed her claims of common-law fraud, tortious interference, breach of fiduciary duty, and breach of contract. While the district court addressed these claims in its order dismissing the first amended complaint, it did not do so in the order dismissing the second amended complaint, perhaps because it could no longer discern them. To the extent Charles's second amended complaint does set forth any such claims, we agree with the district court's rationale when it dismissed the first amended complaint that Charles was not the real party in interest. *See* FED. R. CIV. P. 17(a)(1). The tortious conduct alleged in these claims occurred before Charles and her husband filed for bankruptcy in 2014, at which time any legal claims became property of the bankruptcy estate and could only be prosecuted by the trustee. *See* 11 U.S.C. § 541(a)(1); *Biesek v. Soo Line R. Co.*, 440 F.3d 410, 413–14 (7th Cir. 2006).

Charles counters that she has standing to bring these claims because they were abandoned by the trustee and therefore reverted to her. *See* 11 U.S.C. § 554; *Biesek*, 440 F.3d at 413–14. She advances contradictory arguments on this point, however, and both lack merit. On the one hand, Charles says that it was impossible for her to know she possessed the claims because the banks fraudulently concealed them. But that does not change the fact that the claims would have belonged to the bankruptcy estate

because the transactions out of which they arose occurred before the bankruptcy petition. *In re Polis*, 217 F.3d 899, 902 (7th Cir. 2000). On the other hand, Charles says that she told the trustee about the claims, and therefore they were scheduled and abandoned. But mere informal disclosure of legal claims to a trustee is ineffective to schedule them. *Morlan v. Universal Guar. Life Ins. Co.*, 298 F.3d 609, 618 (7th Cir. 2002). The claims were never scheduled, so they were never abandoned and continue to belong to the bankruptcy estate. *Id.*; 11 U.S.C. § 554(c)–(d).

Charles also argues that her fraud claim against Dongola Bank related to its quiet title action is timely because it arose after the bankruptcy case and was brought within the five-year statute of limitations. *See* 735 ILCS 5/13-205. But this claim is barred under the *Rooker-Feldman* doctrine, which prevents a person who lost in state court from asking a lower federal court to review and reject the state-court judgment that is the source of her injury. *See Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). The appellees and the district court failed to raise this issue, but it is one pertaining to subject matter jurisdiction, so we raise it sua sponte. *Crawford v. Countrywide Home Loans, Inc.*, 647 F.3d 642, 646 (7th Cir. 2011).

Here, a state court already has considered and decided the issue of who owns the relevant property. Charles takes issue with this decision, arguing that she had a right of first refusal on the property which Dongola Bank violated by secretly filing a quiet title action. But it is the state-court judgment quieting title, not Dongola Bank's filing of the suit, that is the source of Charles's injury. Whether the fraud claim is intended as a belated defense or as an attack on the judgment itself, to declare the quiet title action wrongful or invalid would directly upset the state-court judgment. *See, e.g.*, *Crawford*, 647 F.3d at 646–47. Accordingly, the district court lacked subject matter jurisdiction to consider this claim.

Throughout her brief, Charles also argues that the dismissal of her complaint without discovery or a hearing violates her due process rights. This argument is without merit. A motion to dismiss seeks only to test the legal sufficiency of a complaint. *Gibson v. City of Chi.*, 910 F.2d 1510, 1520 (7th Cir. 1990). At this stage, all well-pleaded facts in Charles's complaint are taken as true, so there is not yet any reason to hold an evidentiary hearing or begin discovery. *See id.* at 1520–21.

Finally, the district court did not err when it concluded that permitting Charles to amend her complaint would be futile. Charles has not identified any way in which she could amend her complaint to address the deficiencies identified by the district court. Nor could she. Charles does not have a private right of action under the cited

criminal statutes. And any attempt to state claims relating to events before the bankruptcy would be futile because they would belong to the bankruptcy estate.

Accordingly, the judgment of the district court is modified to reflect that the dismissal of the claim against Dongola Bank is for lack of subject matter jurisdiction, and is, as modified, affirmed.