

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

November 4, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

VIOLA ADKINS,

Plaintiff - Appellant,

v.

VINAYA KODURI,

Defendant - Appellee.

No. 21-3134
(D.C. No. 2:21-CV-02206-JAR-TJJ)
(D. Kan.)

ORDER AND JUDGMENT*

Before **MATHESON, BRISCOE, and PHILLIPS**, Circuit Judges.

Since 2016, Viola Adkins has been trying to litigate her medical-malpractice claim against Vinaya Koduri in the District of Kansas. But judges in that district have told her that their court lacks subject-matter jurisdiction over her case. *See, e.g., Adkins v. Koduri*, No. 16-CV-4134-DDC-KGS, 2016 WL 5745550, at *2–3 (D. Kan. Oct. 3, 2016). We have twice told her the same thing by affirming the district court orders dismissing her case. *See Adkins v. Koduri*, 688 F. App’x 589 (10th Cir. 2017); *Adkins v. Koduri*, 755 F.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

App'x 751 (10th Cir. 2018). Even the Supreme Court weighed in by denying her request to appeal one of our decisions. *Adkins v. Koduri*, 138 S. Ct. 360 (2017), *reh'g denied*, 138 S. Ct. 540 (2017).

Now, again proceeding pro se,¹ Adkins has filed a third case in our court appealing the district court's dismissal for lack of subject-matter jurisdiction. She also seeks leave to proceed *in forma pauperis*. She argues that the district court erred by not exercising mandamus jurisdiction over her case under 28 U.S.C. § 1361. She also asks us to adjudicate the merits of her medical-malpractice claim.²

For a federal court to reach the merits of a dispute, it must first have subject-matter jurisdiction. *See In re Aramark Leisure Serv's*, 523 F.3d 1169, 1173 (10th Cir. 2008). Here, Adkins's only asserted basis for subject-matter jurisdiction appears to be mandamus. But there is no mandamus jurisdiction over her case because 28 U.S.C. § 1361 applies only if a plaintiff seeks to compel an officer or employee of the United States or its agents to act. The defendant here is none of these, so the district court properly held that it lacked subject-matter jurisdiction over her case and dismissed it. And because of this lack of subject-matter jurisdiction, our court cannot reach the merits of her case either. Thus, exercising jurisdiction under 28 U.S.C. § 1291 and reviewing de

¹ Because Adkins is pro se we will liberally construe her filings but cannot advocate on her behalf. *See James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

² As the district court also observed, Adkins's penmanship makes understanding her arguments difficult, though we have tried to interpret her arguments on appeal as best as we can.

novo, we AFFIRM the district court. We also DENY Adkins's motion for leave to proceed *in forma pauperis*.³

Entered for the Court

Gregory A. Phillips
Circuit Judge

³ For an *in forma pauperis* motion to be granted an appellant must show that she is unable to pay the required filing fee, and she must have a reasoned and nonfrivolous argument to support her appeal. *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). We conclude that Adkins has not made such a showing and deny her motion to proceed *in forma pauperis*.