

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

August 24, 2026

Christopher M. Wolpert
Clerk of Court

ALIN DUMITRASCU,

Plaintiff - Appellant,

v.

VIOLETA DUMITRASCU;
MARIANA BORSAN,

Defendants - Appellees.

No. 25-1432
(D.C. No. 1:25-CV-01087-LTB-RTG)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH, McHUGH**, and **FEDERICO**, Circuit Judges.

Alin Dumitrascu, proceeding pro se, appeals the district court's dismissal without prejudice of his amended complaint for lack of jurisdiction. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* 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This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

I

In 2021, Violeta Dumitrascu filed a petition pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the International Child Abduction Remedies Act before the United States District Court of Colorado (“the Hague proceedings”). She alleged that Alin had wrongfully retained their minor child in the United States and sought the child’s return to Romania, the child’s alleged habitual residence, so that a Romanian court could make a custody determination. The district court found that the child’s habitual residence was in Romania and granted the petition. Alin appealed, and this court affirmed in 2022. *See Dumitrascu v. Dumitrascu*, No. 21-1341, 2022 WL 1529624 (10th Cir. May 16, 2022).

In 2025, Alin filed a new suit in the district court, which was assigned to a different judge and a new docket. That new suit is at issue in this appeal. Alin’s operative complaint raised federal claims against Violeta and her mother, Mariana Borsan. Those claims were premised on allegations of fraud on the court related to the original Hague Convention proceedings. Specifically, Alin alleged that Violeta, with Mariana’s assistance, submitted false evidence and testimony to the court to take custody of their child in the Hague proceedings. He requested damages and a finding that the defendants were liable for abducting a minor and committing fraud on the court.

A magistrate judge prepared a report and recommendation (“R&R”), recommending that Alin’s action be dismissed without prejudice for lack of jurisdiction. The R&R noted that Alin’s claims of fraud on the court should be contested before the court that originally conducted his Hague proceedings, and that such a remedy remained available to him in a postjudgment Rule 60(b) motion on the original docket. It reasoned that Alin’s allegations amounted to an improper collateral attack on the judgment from the Hague proceedings, and that the court lacked jurisdiction to review the decision of another federal court.

Alin objected to the magistrate judge’s R&R. He argued that this case was a new action, not a collateral attack, and that he was unable to obtain adequate relief in the Hague proceedings because the district court treated him unfairly.

The district court adopted the R&R over Alin’s objections and dismissed the matter without prejudice for lack of jurisdiction. Alin appeals.

II

On appeal, Alin challenges the court’s jurisdictional dismissal. He asserts that the district court had subject matter jurisdiction over his new claims because he asserted claims under federal law. Alin also disagrees with the characterization of the action as a collateral attack and argues that

he was raising civil claims for relief based on the defendants' fraudulent conduct.¹

We review jurisdictional dismissals de novo. *Montez v. Hickenlooper*, 640 F.3d 1126, 1130 (10th Cir. 2011).

The district court did not err when it declined to exercise jurisdiction over Alin's claims, as he should have (and could have) raised them in the same court where his claims arose. While "federal courts may entertain such independent actions in cases of fraud," they may "decline[] to exercise jurisdiction over such claims when they may be brought in the court which entered the judgment." *Carter v. Att'y Gen.*, 782 F.2d 138, 142 n.4 (10th Cir. 1986). That is true here. *See Lapin v. Shulton, Inc.*, 333 F.2d 169, 172 (9th Cir. 1964) ("[C]onsiderations of comity and orderly administration of justice demand that the nonrendering court should decline jurisdiction of such an action and remand the parties for their relief to the rendering court, so long as it is apparent that a remedy is available there.").

Alin says his claims are a new action, but the facts and context of this case make clear that he is attempting to collaterally attack the Hague

¹ In his reply, Alin argues that the district court's order lacked sufficient explanation. Because "we generally do not consider arguments made for the first time on appeal in an appellant's reply brief," we deem this argument waived and decline to address it further. *United States v. Leffler*, 942 F.3d 1192, 1197 (10th Cir. 2019).

proceedings. *See Republic Building Co., Inc. v. Charter Township of Clinton, Michigan*, 81 F.4th 662, 666 (6th Cir. 2023) (“A collateral attack is ‘[a]n attack on a judgment in a proceeding other than on a direct appeal.’”) (citations and emphasis omitted); *Collateral Attack*, BLACK’S LAW DICTIONARY (12th ed. 2024) (“[A]n attempt to undermine a judgment through a judicial proceeding in which the ground of the proceeding (or a defense in the proceeding) is that the judgment is ineffective.”). Alin’s claims are rooted in allegations of fraud and wrongdoing committed in the Hague proceedings. His new action is effectively an attempt to circumvent or challenge that outcome by making allegations of fraud against Violeta and Mariana. As the district court noted, the proper mechanism for raising such a complaint is in a postjudgment motion before that same court. *See* Fed. R. Civ. P. 60(b). And while Alin contends that the district court had jurisdiction over his claims under federal law, the existence of a federal question was not the court’s sole consideration when determining whether it had jurisdiction to hear Alin’s case.

III

We affirm the district court's judgment.

Entered for the Court

Richard E.N. Federico
Circuit Judge