

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2150

HAYRIYE BERIL GOK,
Appellant

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF JUSTICE;
MERRICK B. GARLAND, THE US ATTORNEY; FEDERAL BUREAU OF
INVESTIGATION; CHRISTOPHER A. WRAY, THE US DIRECTOR OF THE
FEDERAL BUREAU OF INVESTIGATION; OFFICE OF ATTORNEY GENERAL
PENNSYLVANIA; JOSHUA D. SHAPIRO, THE PENNSYLVANIA ATTORNEY
GENERAL; LAWRENCE S. KRASNER, THE DISTRICT ATTORNEY OF
PHILADELPHIA; OFFICE OF DISTRICT ATTORNEY PHILADELPHIA COUNTY;
GOMEZ, PRIVATE CRIMINAL COMPLAINT UNIT, THE OFFICE OF THE
DISTRICT ATTORNEY OF PHILADELPHIA

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(E.D. Pa. Civ. No. 2-22-cv-04838)
District Judge: Honorable Gene E. K. Pratter

Submitted Pursuant to Third Circuit LAR 34.1(a)
April 11, 2024

Before: BIBAS, PORTER, and MONTGOMERY-REEVES, Circuit Judges

(Opinion filed: April 12, 2024)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Hayriye Gok, proceeding pro se, appeals a District Court order denying her motion to reconsider the denial of leave to amend her complaint, and orders denying her amended motion to reconsider the denial of special relief and motions related thereto. We will affirm the latter orders, albeit on different grounds than the District Court. We will dismiss the remainder of the appeal for lack of jurisdiction.

Gok filed a complaint against the United States, the Department of Justice, the Federal Bureau of Investigation, the Office of the Pennsylvania Attorney General, the Office of the District Attorney of Philadelphia, and federal, state, and city officials. Gok averred that defendants Joshua Shapiro, then the Pennsylvania Attorney General, and Lawrence Krasner, the Philadelphia District Attorney, conspired with Charles Koch and “kidnapped” her child. She alleged that Shapiro and Krasner sought to obstruct an investigation into her reports of child abuse, apparently by her child’s father. They allegedly bribed the Philadelphia Family Court to obtain a fraudulent custody order awarding custody to her child’s father. Gok was also ordered to pay child support.

Gok averred that she has not received a response to her child abuse complaints, that the DOJ and FBI investigated the matter but have not advised her of the results, and that Shapiro and others killed her brother in order to obstruct the investigation. She also alleged that the defendants improperly allowed a party in a prior suit she had filed to bring a private criminal complaint against her that went to mediation. Gok claimed

violations of her constitutional rights, the Federal Tort Claims Act, and state criminal statutes. She sought damages and injunctive relief.

In orders entered on February 10, 2023, the District Court denied motions by Gok for leave to file an amended complaint and for special relief. Gok moved for reconsideration of the denial of the motion for special relief. She reiterated that her child was kidnapped in order to obstruct her complaints and alleged that President Biden was involved. She sought an order returning custody of her child to her, a restraining order to protect her and her child, and an order cancelling the custody and support orders. Gok attached exhibits to her amended motion, including an emergency petition filed by her child's father in state court alleging that Gok was not complying with their joint custody order, a May 12, 2022, temporary custody order awarding sole custody to Gok's child's father, and a February 10, 2023, final support order. Gok also filed motions to reconsider the denial of leave to amend her complaint and additional motions for leave to amend.

On June 22, 2023, the District Court denied reconsideration and leave to amend.¹ In separate orders issued the same day, it denied her amended motion to reconsider the denial of special relief, a motion to cease support payments pending a final custody order, and motions to expedite a decision. The District Court had initially denied Gok's motion for special relief under the Rooker-Feldman² doctrine. On reconsideration, it declined to

¹ After issuance of the February 10, 2023, orders, Gok filed 12 motions for reconsideration and for leave to amend. The District Court denied the most recent motion and deemed the prior motions moot.

² Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923); Dist. of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462 (1983).

apply Rooker-Feldman and ruled that it would abstain under Younger v. Harris, 401 U.S. 37 (1971). Gok now appeals the June 22, 2023, orders.

We lack jurisdiction to the extent Gok appeals the order denying leave to amend the complaint and the related motion for reconsideration. This order is not immediately appealable as the District Court has yet to enter a final decision in Gok’s case under 28 U.S.C. § 1291. See In re Kelly, 876 F.2d 14, 15 (3d Cir. 1989) (stating the denial of leave to amend is not a final order). A motion to dismiss Gok’s original complaint remains pending. We have jurisdiction, however, to review the orders related to the denial of special relief. See 28 U.S.C. § 1292(a)(1) (conferring jurisdiction over appeals of interlocutory orders refusing injunctions). We review the denial of injunctive relief for abuse of discretion; our review of legal conclusions is de novo. See Siemens USA Holdings, Inc. v. Geisenberger, 17 F.4th 393, 407 n.19 (3d Cir. 2021).

Courts may abstain from exercising jurisdiction only when “exceptional circumstances” justify the refusal to decide a case in deference to the States. Sprint Commc’ns, Inc. v. Jacobs, 571 U.S. 69, 78 (2013). Exceptional circumstances exist in three types of cases: ongoing state criminal prosecutions, civil enforcement proceedings, and “civil proceedings involving certain orders . . . uniquely in furtherance of the state courts’ ability to perform their judicial functions.” Id. (citations omitted). If a case falls in one of these categories, a court considers additional factors under Middlesex County

Ethics Committee v. Garden State Bar Association, 457 U.S. 423 (1982). Sprint, 571 U.S. at 81.

On appeal, Gok asserts that the Middlesex factors are inapplicable or that an exception to abstention applies. See Appellant’s Brief at 334-37. We do not reach these arguments, however, because an exceptional circumstance does not exist. Gok’s motions involve an alleged fraudulent custody order, not an ongoing state criminal prosecution or civil enforcement proceeding. Although the District Court ruled that custody proceedings fall into the third category, the custody and support orders at issue are not “uniquely in furtherance of the state courts’ ability to perform their judicial functions.” Malhan v. Sec’y U.S. Dep’t of State, 938 F.3d 453, 463 (3d Cir. 2019). In Malhan, we explained that judicial orders related to support were the “output of [judicial] functions,” not orders that “ensure that family courts can perform their functions.” Id. Rather, the Supreme Court has applied the third category to cases involving “‘challenges to the processes by which the State compels compliance with the judgments of its courts.’” Smith & Wesson Brands, Inc. v. Att’y Gen. of New Jersey, 27 F.4th 886, 894 (3d Cir. 2022) (citation omitted).³

We will, however, affirm the District Court’s order denying Gok’s amended motion to reconsider the denial of special relief and related motions on other grounds.

³ To the extent the District Court relied on Anthony v. Council, 316 F.3d 412 (3d Cir. 2003), Sprint abrogated that decision. Malhan, 938 F.3d at 462 n.4. In addition, we agree with Gok to the extent she contends that Rooker-Feldman did not deprive the District Court of jurisdiction. See id. at 460-61; Great W. Mining & Min. Co. v. Fox Rothschild LLP, 615 F.3d 159, 167 (3d Cir. 2010).

See TD Bank N.A. v. Hill, 928 F.3d 259, 270 (3d Cir. 2019) (noting we may affirm on any basis supported by the record). In order to obtain preliminary injunctive relief, Gok was required to show, among other things, that she was reasonably likely to succeed on the merits of her claims. Siemens USA Holdings, 17 F.4th at 410 n.23. Her motions alleging fraud and retaliation in her custody and support proceedings fall far short of satisfying this standard. In so holding, we take no position on whether Gok's complaint states a claim for relief. See Singer Mgmt. Consultants, Inc. v. Milgram, 650 F.3d 223, 229 (3d Cir. 2011) (en banc) (distinguishing a ruling on an injunction from a resolution of the merits).

Accordingly, we will affirm the June 22, 2023, orders of the District Court related to the denial of special relief. We will dismiss the remainder of the appeal for lack of jurisdiction.⁴

⁴ Appellant's motion to file a brief exceeding the page limit is granted. Her motion to file under seal the documents received by the Court on November 3, 2023, is granted. All other pending motions are denied.