

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Tommy-Lee Kirk v. Frank Shoffner, et al.

Kirk v. Shoffner · No. 25-1291-JWB · Decided February 9, 2026

SUMMARY

The United States District Court for the District of Kansas adopts a magistrate judge’s report and recommendation and dismisses Tommy-Lee Kirk’s complaint without prejudice for lack of subject-matter jurisdiction. The court holds that the Rooker-Feldman doctrine bars the action because Kirk’s claims are effectively challenges to judgments and proceedings in an ongoing Kansas state-court mortgage-foreclosure case. Kirk’s objections and remaining motions are denied or denied as moot.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Broomes
JURISDICTION	United States District Court for the District of Kansas
DECIDED	February 9, 2026
DOCKET	25-1291-JWB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's report and recommendation recommending dismissal for lack of subject matter jurisdiction. The district court conducted de novo review of the properly objected-to portions, adopted the report and recommendation, dismissed the complaint without prejudice, and denied plaintiff's remaining motions as moot.
STANDARD OF REVIEW	The district court reviews properly objected-to portions of a magistrate judge's disposition de novo under Federal Rule of Civil Procedure 72(b)(3). The court may review portions to which no proper objection is made under any standard it deems appropriate.
PRECEDENTIAL VALUE	nonprecedential district court memorandum and order
PARTIES	Tommy-Lee Kirk v. Frank Shoffner, Credit Union of America, Sam Grove

TOPICS

subject matter jurisdiction

foreclosure

mortgages

civil procedure

due process

PRACTICE AREAS

civil procedure

civil rights

real estate litigation

mortgage foreclosure

QUESTIONS PRESENTED

1. Whether the federal district court had subject matter jurisdiction over plaintiff's claims challenging or arising from an ongoing Kansas state-court mortgage foreclosure proceeding.
2. Whether the Rooker-Feldman doctrine barred plaintiff's federal action because the requested relief would require the district court to review or reject state-court judgments.
3. Whether the district court should adopt the magistrate judge's report and recommendation after plaintiff filed objections.

HOLDINGS

1. The district court lacked subject matter jurisdiction because plaintiff's claims sought relief from injuries allegedly caused by state-court foreclosure proceedings and judgments, placing them within the Rooker-Feldman doctrine.
2. The court overruled plaintiff's objections, adopted the magistrate judge's report and recommendation, and dismissed the complaint without prejudice.

KEY QUOTATIONS

"The essential point is that barred claims are those complaining of injuries caused by state-court judgments."

"The court cannot do so."

"Therefore, this court lacks subject matter jurisdiction over this matter."

FACTUAL BACKGROUND

Credit Union of America filed a Kansas state-court action to foreclose a mortgage on real property after Tommy-Lee Kirk and Chantel Kirk allegedly defaulted. The state court entered judgment for the credit union in April 2025 and scheduled a sheriff's sale. Kirk then filed a federal action alleging that defendants' failure to respond to a purported conditional acceptance of a bill resulted in an implied acceptance and violated his civil rights by depriving him of property without due process.

PROCEDURAL HISTORY

Plaintiff filed a federal complaint alleging that defendants violated his civil, property, contractual, and constitutional rights in connection with a Kansas state-court mortgage foreclosure proceeding. A magistrate judge screened the complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) and recommended dismissal for lack of subject matter jurisdiction under the Rooker-Feldman doctrine. The district court overruled plaintiff's objections, adopted the report and recommendation, dismissed the action without prejudice, and denied plaintiff's motion for summary judgment and motion for de novo review as moot.

DISPOSITION

dismissed

CASES CITED

- Williams v. United States, No. 19-2476-JAR-JPO, 2019 WL 6167514, at *1 (D. Kan. Nov. 20, 2019)
- United States v. One Parcel of Real Property, 73 F.3d 1057, 1060 (10th Cir. 1996)
- Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)
- Thomas v. Arn, 474 U.S. 140, 150 (1985)
- Gad v. Kan. State Univ., 787 F.3d 1032, 1035 (10th Cir. 2015)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Yang v. Archuleta, 525 F.3d 925, 927 n.1 (10th Cir. 2008)
- Lance v. Dennis, 546 U.S. 459, 460 (2006) (per curiam)
- Campbell v. City of Spencer, 682 F.3d 1278, 1283 (10th Cir. 2012)
- Mann v. Boatright, 477 F.3d 1140, 1147 (10th Cir. 2007)
- MacIntyre v. JP Morgan Chase Bank, N.A., 827 F. App'x 812, 818 (10th Cir. 2020)
- Williams v. HSBC Bank USA, N.A., 681 F. App'x 693, 696 (10th Cir. 2017)
- PJ ex rel. Jensen v. Wagner, 603 F.3d 1182, 1193 (10th Cir. 2010)

OPINION

Kirk

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

TOMMY-LEE KIRK,

Plaintiff, v. Case No. 25-1291-JWB FRANK SHOFFNER, et al., Defendants.

MEMORANDUM AND ORDER

This matter is before the court on Magistrate Judge Brooks Severson's Report and Recommendation ("R&R") recommending that the court dismiss this action for lack of subject-matter jurisdiction. (Doc. 5.) Plaintiff has timely objected. (Doc. 10.) Additionally, Plaintiff has filed a motion for de novo review of magistrate judge's R&R (Doc. 11) and motion for summary judgment (Doc. 9). Despite Plaintiff's objections (Doc. 10), the court ADOPTS the magistrate judge's R&R (Doc. 5) and DISMISSES Plaintiff's complaint without prejudice. Accordingly, Plaintiff's remaining motions (Docs. 9, 11) are DENIED AS MOOT. I. Facts On December 19, 2025, Tommy-Lee Kirk ("Plaintiff") filed a complaint against Credit Union of America ("CUA"); Frank Shoffner, CEO of CUA; and Sam Grove, CFO of CUA (collectively "Defendants"). (Doc. 1.) Plaintiff cites various federal and state constitutional provisions and statutes, and alleges his civil, property, and contractual rights were violated. After a review of Kansas state court records,

in December of 2024, CUA filed a petition in the Eighteenth Judicial District Court of Sedgwick County to foreclose a mortgage on real property as to which Plaintiff and Chantel Kirk had defaulted. See *Credit Union of America v. Tom L. Kirk, et al.*, Case No. SG-2024-CV-002339. According to the state court docket, CUA obtained a judgment against Plaintiff in April of 2025, and a sheriff's sale was scheduled shortly thereafter. Following entry of judgment, Plaintiff began filing a plethora of motions and notices in the state court. The last filing was docketed on January 16, 2026. While not a model of clarity, Plaintiff alleges that Defendants failed to answer what he characterizes as a "conditional acceptance of a bill." (Doc. 1 at 4.) Due to their failure to respond, Plaintiff continues, Defendants impliedly accepted Plaintiff's "bill," and subsequently breached. As a result, Plaintiff alleges that his civil rights were violated because Defendants deprived him of property without due process. In accordance with 28 U.S.C. § 1915(e)(2)(B)(ii), Magistrate Judge Severson screened Plaintiff's complaint and entered an R&R recommending dismissal for lack of subject matter jurisdiction. Magistrate Judge Severson held that this court lacked subject matter jurisdiction under the Rooker-Feldman doctrine because the relief requested requires this court to set aside the state court judgment or otherwise alter rulings in that action. The court agrees and adopts the R&R. II. Standard Review of an R&R. Plaintiff has timely objected, in part, to the R&R. When reviewing a magistrate judge's ruling on a dispositive matter, the district judge "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). A failure to properly object, however, leaves a party with no entitlement to appellate review, and allows the district court to review the R&R under any standard it deems appropriate. See *Williams v. United States*, No. 19-2476-JAR-JPO, 2019 WL 6167514, at *1 (D. Kan. Nov. 20, 2019) (citing *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996)) ("The Tenth Circuit requires that objections to a magistrate judge's recommended disposition 'be both timely and specific to preserve an issue for de novo review by the district court...' "). "In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.")). Subject-Matter Jurisdiction. "[F]ederal courts are courts of limited subject-matter jurisdiction," and they "may only hear cases when empowered to do so by the Constitution and by act of Congress." *Gad v. Kan. State Univ.*, 787 F.3d 1032, 1035 (10th Cir. 2015) (quotation omitted). Because federal courts are courts of limited jurisdiction, a presumption exists against jurisdiction, and "the burden of establishing the contrary rests upon the party asserting jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Thus, the court must dismiss an action if at any point in time it determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). Pro Se Standard. Because Plaintiff is proceeding pro se, the court is to liberally construe his filings. *Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008). However, liberally construing filings does not

mean supplying additional factual allegations or constructing a legal theory on his behalf. Id. III. Analysis Magistrate Judge Severson found that this matter should be dismissed for lack of subject matter jurisdiction on the basis that this action is barred by the Rooker-Feldman doctrine. (Doc. 5.) That doctrine “prevents the lower federal courts from exercising jurisdiction over cases brought by state-court losers challenging state-court judgments rendered before the district court proceedings commenced.” *Lance v. Dennis*, 546 U.S. 459, 460 (2006) (per curiam) (internal quotations omitted). “The essential point is that barred claims are those complaining of injuries caused by state-court judgments. In other words, an element of the claim must be that the state court wrongfully entered its judgment.” *Campbell v. City of Spencer*, 682 F.3d 1278, 1283 (10th Cir. 2012) (internal citations and quotations omitted). Here, Plaintiff’s complaint is difficult to follow, includes several conclusory allegations, and fails to identify who did what to whom. Nevertheless, this court agrees with Magistrate Judge Severson’s overall assessment that Plaintiff is claiming injury from state court proceedings and state court rulings in the ongoing mortgage foreclosure action in the District Court of Sedgwick County. (Doc. 1.) The requested relief effectively asks the court to review and reject state court judgments, by merely listing general grievances with the foreclosure process. The court cannot do so. See *Mann v. Boatright*, 477 F.3d 1140, 1147 (10th Cir. 2007). Moreover, under Rooker- Feldman, this court has no jurisdiction to grant such relief. See *MacIntyre v. JP Morgan Chase Bank, N.A.*, 827 F. App’x 812, 818 (10th Cir. 2020) (holding that former homeowner’s complaint, claiming that note holder committed fraud in foreclosure proceedings in state court, was barred, under Rooker-Feldman); *Williams v. HSBC Bank USA, N.A.*, 681 F. App’x 693, 696 (10th Cir. 2017) (holding that Rooker-Feldman doctrine barred federal lawsuit seeking review and rejection of state court’s foreclosure judgment). In sum, Plaintiff’s claims are “inextricably intertwined” with claims decided by the state court before these federal proceedings commenced. See *PJ ex rel. Jensen v. Wagner*, 603 F.3d 1182, 1193 (10th Cir. 2010) (“[T]he Rooker-Feldman doctrine precludes lower federal courts from effectively exercising appellate jurisdiction over claims actually decided by a state court and claims inextricably intertwined with a prior state-court judgment.”). Therefore, this court lacks subject matter jurisdiction over this matter. IV. Conclusion THEREFORE, the court finds that Plaintiff’s complaint fails to establish subject matter jurisdiction. Accordingly, Plaintiff’s objections (Doc. 10) are OVERRULED, Magistrate Judge Severson’s R&R (Doc. 5) is ADOPTED, and Plaintiff’s complaint is DISMISSED WITHOUT PREJUDICE. Because Plaintiff’s complaint is dismissed, his remaining motions (Docs. 9, 11) are DENIED AS MOOT. IT IS SO ORDERED. Dated this 9th day of February, 2026. ___s/ John W. Broomes_____

JOHN W. BROOMES

CHIEF UNITED STATES DISTRICT JUDGE