United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16-7102 **September Term, 2016**

FILED ON: APRIL 18, 2017

PAMELA DUARTE,

APPELLANT

v.

MICHAEL EDWARD NOLAN AND HELIX ELECTRIC, INC.,

APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:15-cv-01396)

Before: KAVANAUGH and WILKINS, *Circuit Judges*, and EDWARDS, *Senior Circuit Judge*.

J U D G M E N T

This appeal of a grant of a motion to dismiss and denial of a motion for relief from judgment by the United States District Court for the District of Columbia was presented to the Court, and briefed and argued by counsel. The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. CIR. R. 36(d). For the reasons stated below, it is

ORDERED AND ADJUDGED that the District Court's orders be **AFFIRMED**.

We review the District Court's dismissal of the case for lack of personal jurisdiction de novo. *Williams v. Romarm, SA*, 756 F.3d 777, 783 (D.C. Cir. 2014). The Plaintiff-Appellant, Pamela Duarte, was injured in a car accident that occurred in Virginia. Duarte sued the truck driver who allegedly crashed into her car, Michael Nolan, and his employer, Helix Electric, Inc. ("Helix"), in federal court in the District of Columbia. There is no dispute that Nolan is a citizen of California, and that Helix is a California corporation with its principal place of business in California. Although Helix conducts some business in D.C., Duarte concedes that its D.C. activities bore no relation to the accident that occurred in Virginia.

Given those circumstances, the only way Duarte could have sustained her action against Helix in the District Court would have been to show that Helix is otherwise "at home" in D.C. as

defined by the Supreme Court in *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014). Duarte proffered evidence that Helix has an office in the D.C. metropolitan area (Chantilly, VA), and that it does business by way of construction projects in D.C. Duarte also demonstrated that Helix has been sued in connection with its projects in D.C. This does not come close to presenting the "exceptional case" in which the defendant's "operations in a forum other than its formal place of incorporation or principal place of business [are] so substantial and of such a nature as to render the corporation at home." *Daimler*, 134 S. Ct. at 761 n.19. Thus, the District Court's dismissal as to Helix was proper. Dismissal as to Nolan was also appropriate because Duarte offered no independent basis for exercising personal jurisdiction over Nolan beyond his employment with Helix.

Additionally, the District Court properly denied Duarte's request to conduct jurisdictional discovery because she failed to identify "what facts additional discovery could produce that would affect [the District Court's] jurisdictional analysis." *Goodman Holdings v. Rafidain Bank*, 26 F.3d 1143, 1147 (D.C. Cir. 1994); *see also Daimler*, 134 S. Ct. at 762 n.20 ("[I]t is hard to see why much in the way of discovery would be needed to determine where a corporation is at home.").

Finally, the District Court properly declined to revisit its dismissal of the case under either Federal Rule of Civil Procedure 59(e) or 60(b). We review that decision for abuse of discretion. *See Cobell v. Jewell*, 802 F.3d 12, 23 (D.C. Cir. 2015); *Bain v. MJJ Prods., Inc.*, 751 F.3d 642, 646 (D.C. Cir. 2014). Duarte asserted two grounds for seeking post-judgment relief. First, Duarte claimed to have "newly discovered" evidence of Helix's presence in D.C., including public records showing that Helix is registered to do – and in fact does – business in D.C.[1] But this evidence merely confirmed what the District Court already found was insufficient to meet the "at home" standard in its original decision. Duarte cannot use a post-judgment motion to rehash the same arguments the District Court already rejected. *See Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (Rule 59(e) "may not be used to relitigate old matters"); *Murray v. District of Columbia*, 52 F.3d 353, 355 (D.C. Cir. 1995) ("[A] Rule 60(b) movant 'must at least establish that it possesses a potentially meritorious claim or defense which, if proven, will bring success in its wake.'"). Second, to the extent Duarte accuses Helix of perpetrating a fraud on the court by "withholding" evidence of its registration to do business in D.C., Duarte misunderstands the law. It was her burden, not Helix's, to establish Helix's presence in the forum state.[2] *See Williams*, 756 F.3d at 785–86.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* FED R. APP. P. 41(b); D.C. CIR. R. 41.

[1] We take no position on whether this constitutes the type of "newly discovered" evidence contemplated by Rule 60(b)(2).

[2] Counsel should be far more cautious when lodging accusations that her opposing counsel engaged in a "scheme to defraud" the District Court. Indeed, the District Court's initial decision made clear the burden was on Duarte to provide a factual basis for asserting jurisdiction.

PER CURIAM

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk