

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

September 2, 2020

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

GRETCHEN CARLY BERG,

Petitioner - Appellee,

v.

MIGUEL DAVID GEDO,

Respondent - Appellant.

No. 20-4046
(D.C. No. 2:19-rf-00992)
(D. Utah)

ORDER AND JUDGMENT*

Before **MATHESON, KELLY, and EID**, Circuit Judges.**

Respondent-Appellant Miguel David Gedo appeals from the district court’s restricted-filer case review order declining to open a new district court case. 1 R. 3. Mr. Gedo had been placed on filing restrictions such that the district court will not file his pleadings if they are duplicative or are legally frivolous. *Id.* Here, Mr. Gedo attempted to remove a Utah state district court case in which his former wife sought a protective order against him.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

** 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.

On appeal, Mr. Gedo argues that removal of the underlying state-court case was proper under 28 U.S.C. § 1443 (civil rights removal) and that (1) he is not represented by counsel, (2) application of the restricted filing order deprives him of due process, (3) the restricted filing order deprives him of his rights under the Utah Constitution, (4) the state court has violated 28 U.S.C. § 1446(d) by continuing with proceedings. We have reviewed the matter and conclude that the federal district court plainly had no removal jurisdiction over this domestic relations matter. See Johnson v. Mississippi, 421 U.S. 213, 219 (1975) (requirements for removal under § 1443). The district court did not abuse its discretion in applying its restricted filing order. See Crownhart v. Graham, 809 F. App'x 553, 554 (10th Cir. 2020) (“A district court’s application of a previously-imposed filing restriction is reviewed for abuse of discretion.”).

AFFIRMED. We DENY Mr. Gedo’s application to proceed without prepayment of fees and remind him that he is responsible for any unpaid balance of the appellate filing fee.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge