

Question

A mother is in contact with her stepfather who lives in Oklahoma, he helps her attempt to get a fraudulent ex parte order against her husband in Texas, and when that fails, they devise a scheme. The stepfather in Oklahoma contacts the father, and says "I want to help you" and convinces him to let his wife visit his residency in Oklahoma. After he agrees, the stepfather helps the mother empty the joint marital bank account into his PayPal, which happened across state lines. Then, she drives to his house with the intent to receive help in filing a fraudulent divorce petition, and a false affidavit of indigency and claims of abuse, and gets a second phone. She then contacts her other grandfather in Houston, and requests a new car while also claiming financial responsibility for the current two cars, then she influences her grandmother next door to serve father an eviction notice while she's in Oklahoma, and the eviction cites a divorce and protective order that hadn't been filed yet. The scheme has a common purpose to have the father removed from his home, which is also his business, and this plan works. The court orders the father out of his home, and the mother continues the fraudulent scheme by getting an attorney who adds to the fraud by serving the father a settlement agreement that he did not consent to, which became rendered anyway. How does this affect the divorce court's jurisdiction?

Answer (U.S. Federal)

Short response

The fraudulent scheme does not eliminate the divorce court's jurisdiction, but it may provide grounds for the court to decline jurisdiction or for the father to challenge the proceedings based on the unjustifiable conduct doctrine and potentially seek remedies through other legal channels.

Summary

The fraudulent scheme described involves multiple parties engaging in deceptive practices across state lines to manipulate divorce proceedings and remove the father from his home in Texas. While state courts generally maintain jurisdiction over divorce matters under the domestic relations exception to federal jurisdiction, the fraudulent conduct may impact how that jurisdiction is exercised.

The courts may consider declining jurisdiction based on unjustifiable conduct under principles similar to those found in the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Additionally, while the divorce proceedings themselves remain within state court jurisdiction, the interstate nature of the fraud could potentially give rise to separate federal claims under wire fraud statutes or RICO, though these would be adjudicated separately from the divorce itself. The father may have grounds to challenge the divorce court's decisions based on the fraudulent scheme,

though the divorce court's fundamental jurisdiction over the dissolution of marriage likely remains intact.

Background and Relevant Legal Framework

Domestic Relations Exception to Federal Jurisdiction

At the outset, it is important to note that divorce proceedings generally fall under state court jurisdiction rather than federal jurisdiction. This is known as the domestic relations exception to federal jurisdiction. As established in [Merritt v. Grady, 23-cv-16243 \(N.D. Ill. Jul 30, 2024\)](#), "under the domestic-relations exception to federal jurisdiction, divorce, alimony, and child-custody decrees, are considered outside of federal jurisdictional bounds." The court further explained that "[t]he domestic-relations exception stems from the Supreme Court's long-held understanding that the subject of domestic relations belongs to the laws of the States."

Similarly, in [Haynes v. Bass, NO. 6:18-CV-06086 \(W.D. Ark. Dec 19, 2019\)](#), the court stated that "[t]he domestic relations exception divests federal courts of jurisdiction over the issuance of a divorce, alimony, or child custody decree." This reinforces the principle that divorce proceedings should be handled by state courts rather than federal courts.

Fraudulent Schemes and Jurisdiction

However, the presence of fraudulent conduct may impact jurisdiction in various ways. According to [28 U.S.C. § 1359](#), "A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court." While this statute specifically applies to federal district courts, it illustrates the general principle that courts may decline jurisdiction when it has been improperly or collusively invoked.

In the context of family law, the concept of "unjustifiable conduct" may also be relevant. As noted in [Applying the UCCJEA in Family Law](#) (2021), "This provision allows the court to decline to take jurisdiction if that person engaged in unjustifiable conduct. Unjustifiable conduct is undefined by the statute; therefore, the court has broad discretion." While this source specifically discusses the UCCJEA (Uniform Child Custody Jurisdiction and Enforcement Act), the principle may be applicable by analogy to divorce proceedings where fraudulent conduct has occurred.

Interstate Fraud and Federal Statutes

The interstate nature of the fraudulent scheme described may potentially implicate federal statutes related to wire fraud and racketeering. Under [18 U.S.C. § 1343](#), "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or

sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both."

Additionally, [18 U.S.C. § 1961](#) defines "racketeering activity" to include "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud)." A "pattern of racketeering activity" requires "at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity."

Federal Jurisdiction Over Fraud in Domestic Relations Cases

While the domestic relations exception generally precludes federal courts from exercising jurisdiction over divorce proceedings, there may be limited circumstances where federal courts can hear claims related to fraud in connection with domestic relations matters. In [Spindel v. Spindel, 283 F.Supp. 797 \(E.D. N.Y. 1968\)](#), the court noted that "the federal courts are competent to determine matters involving some aspects of marital status, either directly or indirectly. The fact that, incidental to the exercise of federal jurisdiction, there is an impact or effect on a matter which is cognizable in the state courts cannot divest the federal court of its power."

However, federal courts generally resist attempts to use federal claims as a means to interfere with state divorce proceedings. In [Seaton v. Seaton, 971 F.Supp. 1188 \(E.D. Tenn. 1997\)](#), the court emphasized that it "will not allow the Act to become a gateway for domestic relations issues to slip into this federal court" and that the court "must not be imported into the federal courts." The court further clarified that federal jurisdiction should not be used as "leverage" to tip the scales of distribution in a party's favor in divorce proceedings.

Analysis of the Fraudulent Scheme's Impact on Divorce Court Jurisdiction

State Court Jurisdiction Over Divorce Proceedings

Based on the domestic relations exception to federal jurisdiction, the divorce court (a state court) in this case would generally have jurisdiction over the divorce proceedings, regardless of the fraudulent conduct involved. As established in [Haynes v. Bass, NO. 6:18-CV-06086 \(W.D. Ark. Dec 19, 2019\)](#) and [Merritt v. Grady, 23-cv-16243 \(N.D. Ill. Jul 30, 2024\)](#), divorce proceedings are considered outside of federal jurisdictional bounds and belong to the laws of the states.

The fraudulent scheme described in the question involved actions taken in both Texas and Oklahoma, with the ultimate divorce proceedings occurring in Texas. The interstate nature of the fraud does not, in itself, divest the

Texas divorce court of jurisdiction over the divorce proceedings. However, it may raise questions about the appropriate venue and the potential for the court to decline jurisdiction based on unjustifiable conduct.

Unjustifiable Conduct Doctrine

The fraudulent scheme described in the question likely constitutes "unjustifiable conduct" that could potentially affect the divorce court's exercise of jurisdiction. According to [Applying the UCCJEA in Family Law](#) (2021), a court may decline to take jurisdiction if the person seeking to invoke it has engaged in unjustifiable conduct. The court has broad discretion in determining what constitutes unjustifiable conduct, as the term is not specifically defined.

In this case, the mother's actions—attempting to obtain a fraudulent ex parte order, emptying the joint marital bank account across state lines, filing a fraudulent divorce petition with false claims of abuse, serving an eviction notice referencing a non-existent divorce and protective order, and serving a settlement agreement without consent—could all be considered unjustifiable conduct. These actions were clearly intended to manipulate the legal system and gain an unfair advantage in the divorce proceedings.

Based on the unjustifiable conduct doctrine, the divorce court could potentially decline to exercise jurisdiction or, more likely, take steps to remedy the consequences of the fraudulent conduct. This might include reconsidering orders that were based on fraudulent information, such as the order removing the father from his home.

Impact of Collusion on Jurisdiction

Under [28 U.S.C. § 1339](#), "A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court." While this statute specifically applies to federal courts, it illustrates the principle that courts may decline jurisdiction when it has been improperly or collusively invoked.

In the present case, there appears to be collusion between the mother, her stepfather, and potentially others to manipulate the divorce proceedings. However, it's important to note that this collusion was not aimed at improperly invoking the jurisdiction of the divorce court (as would be the case if, for example, they falsified residency to establish jurisdiction in a particular state). Rather, the collusion was aimed at obtaining favorable outcomes within the context of proceedings where jurisdiction was already properly established.

Therefore, while the collusive scheme described may provide grounds for challenging specific orders and decisions made by the divorce court, it does not necessarily affect the court's fundamental jurisdiction over the divorce proceedings.

Potential Federal Claims

The interstate nature of the fraudulent scheme may potentially give rise to federal claims under wire fraud statutes or the Racketeer Influenced and Corrupt Organizations Act (RICO). Under [18 U.S.C. § 1343](#), the transmission of communications across state lines in furtherance of a scheme to defraud may constitute wire fraud. Similarly, under [18 U.S.C. § 1961](#), a pattern of racketeering activity (which includes wire fraud) may form the basis for a RICO claim.

In this case, the mother's and stepfather's actions—emptying the joint marital bank account across state lines, communicating across state lines to carry out the fraudulent scheme, and engaging in multiple acts of fraud—could potentially constitute wire fraud and a pattern of racketeering activity. However, as noted in [Merritt v. Grady, 23-cv-16243 \(N.D. Ill. Jul 30, 2024\)](#), even when federal-question jurisdiction is invoked for claims under federal law, such as RICO, the domestic-relations exception to federal jurisdiction still applies to matters of divorce, alimony, and child-custody.

This means that while the father might be able to pursue separate federal claims based on the interstate fraud, these claims would need to be adjudicated separately from the divorce proceedings, which would remain under state court jurisdiction.

Balance Between Federal and State Jurisdiction

The tension between federal and state jurisdiction in cases involving fraud in domestic relations matters is evident in the case law. In [Spindel v. Spindel, 283 F.Supp. 797 \(E.D. N.Y. 1968\)](#), the court acknowledged that federal courts can determine matters involving some aspects of marital status, either directly or indirectly, and that the impact on matters cognizable in state courts does not divest the federal court of its power. This suggests that federal courts could potentially hear claims related to the fraudulent scheme, even if they impact the divorce proceedings.

However, as emphasized in [Seaton v. Seaton, 971 F.Supp. 1188 \(E.D. Tenn. 1997\)](#), federal courts are reluctant to allow federal claims to become a "gateway" for domestic relations issues to enter federal court. The court in [Seaton](#) specifically noted that it would not allow a party to "tip the equitable scales of distribution in her favor using the federal court as leverage."

In the present case, the father might be able to pursue federal claims related to the interstate fraud separately from the divorce proceedings. However, he would likely face resistance if he attempted to use these federal claims to directly challenge or influence the divorce proceedings themselves.

Implications for the Father's Legal Options

Given the fraudulent scheme's impact on the divorce court's jurisdiction and proceedings, the father may have several legal options:

1. **Challenge the divorce court's orders based on fraud:** The father could file motions in the divorce court to vacate or reconsider orders that were based on fraudulent information, such as the order removing him from his home. He could argue that the mother's unjustifiable conduct tainted the proceedings and that the court should exercise its discretion to remedy the consequences of this conduct.
2. **Pursue separate federal claims:** As discussed above, the father might be able to pursue separate federal claims based on the interstate fraud under wire fraud statutes or RICO. However, these claims would need to be adjudicated separately from the divorce proceedings.
3. **Request sanctions against the mother and her accomplices:** The father could request that the divorce court impose sanctions against the mother, her stepfather, and any others who participated in the fraudulent scheme. This could include monetary sanctions, attorney's fees, or other remedies.
4. **Challenge venue or request transfer:** If the fraudulent scheme involved manipulating venue to establish divorce proceedings in a particular court, the father could potentially challenge venue or request a transfer to a more appropriate court.

Conclusion

The fraudulent scheme described in the question does not eliminate the divorce court's fundamental jurisdiction over the divorce proceedings, as divorce matters generally fall under state court jurisdiction rather than federal jurisdiction due to the domestic relations exception. However, the fraudulent conduct may provide grounds for the divorce court to reconsider specific orders and decisions that were based on fraudulent information.

The father may have several legal options for addressing the consequences of the fraudulent scheme, including challenging the divorce court's orders based on fraud, pursuing separate federal claims based on the interstate fraud, requesting sanctions against the mother and her accomplices, and potentially challenging venue or requesting a transfer.

The divorce court has broad discretion in determining what constitutes unjustifiable conduct and how to remedy the consequences of such conduct. Given the egregious nature of the fraudulent scheme described, it is likely that the court would take steps to address the fraud and ensure that the divorce proceedings are conducted fairly and equitably.

The interstate nature of the fraud may also give rise to potential federal claims under wire fraud statutes or RICO. However, these claims would need

to be adjudicated separately from the divorce proceedings, which would remain under state court jurisdiction due to the domestic relations exception.

In summary, while the fraudulent scheme does not eliminate the divorce court's jurisdiction over the divorce proceedings, it may significantly impact how that jurisdiction is exercised and provide grounds for challenging specific orders and decisions made by the court.

Legal Authorities

[Haynes v. Bass, NO. 6:18-CV-06086 \(W.D. Ark. Dec 19, 2019\)](#)

U.S. District Court — Western District of Arkansas

Extract

In general, diversity jurisdiction exists when 'the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and [involves] citizens of different States.' 28 U.S.C. § 1332(a). But federal jurisdiction does not extend to 'the so-called 'domestic relations' and 'probate' exceptions.' Marshall v. Marshall, 547 U.S. 293, 299, 126 S. Ct. 1735, 1741, 164 L. Ed. 2d 480 (2006). The domestic relations exception divests federal courts of jurisdiction over the issuance of a divorce, alimony, or child custody decree. Ankenbrandt v. Richards, 504 U.S. 689, 704, 112 S. Ct. 2206, 2215, 119 L. Ed. 2d 468 (1992).

Summary

The passage explains that federal courts do not have jurisdiction over domestic relations matters such as divorce, alimony, or child custody due to the domestic relations exception. This means that even if there is a fraudulent scheme involved, the federal court would not have jurisdiction over the divorce proceedings themselves. The jurisdiction would remain with the state court handling the divorce, unless there are other federal issues that could be addressed separately.

[Merritt v. Grady, 23-cv-16243 \(N.D. Ill. Jul 30, 2024\)](#)

U.S. District Court — Northern District of Illinois

Extract

Because his complaint asserts claims under federal law, including claims under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 et seq., Merritt has invoked the Court's federal-question jurisdiction under 28 U.S.C. § 1331. However, under the domestic-relations exception to federal jurisdiction, divorce, alimony, and child-custody decrees, are considered outside of federal jurisdictional bounds. Marshall v.

Marshall, 547 U.S. 293, 308 (2006). The domestic-relations exception stems from the Supreme Court's long-held understanding that the subject of domestic relations belongs to the laws of the States. *Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992).

Summary

While federal-question jurisdiction can be invoked for claims under federal law, such as the Racketeer Influenced and Corrupt Organizations Act, the domestic-relations exception to federal jurisdiction means that matters of divorce, alimony, and child-custody are typically outside federal jurisdiction and are governed by state law. This suggests that the fraudulent activities described in the question, which are related to a divorce proceeding, would not typically affect the divorce court's jurisdiction, as these matters are generally handled by state courts under the domestic-relations exception.

[Seaton v. Seaton, 971 F.Supp. 1188 \(E.D. Tenn. 1997\)](#)

U.S. District Court — Eastern District of Tennessee

Extract

Even though the court is of the opinion that VAWA is constitutional, this court will not allow the Act to become a gateway for domestic relations issues to slip into this federal court. VAWA itself states that the statute does not 'confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody.' 42 U.S.C. § 13981(e)(4). Applying the Sixth Circuit's mandate for district courts to interpret the true meaning of a dispute, this court finds that the true character of the dispute in the present case is the division of marital assets, at least insofar as the state law claims regarding breach of fiduciary duty and the like are concerned. Plaintiff merely seeks to tip the equitable scales of distribution in her favor using the federal court as leverage. This is a matter to be resolved by the state courts within the divorce proceeding and must not be imported into the federal courts.

Summary

Federal courts do not have jurisdiction over state law claims related to divorce, alimony, equitable distribution of marital property, or child custody. The federal court emphasizes that such matters should be resolved by state courts within the divorce proceedings. This suggests that the fraudulent scheme described in the question, which involves divorce and related issues, should be addressed by the state court rather than the federal court.

[Spindel v. Spindel, 283 F.Supp. 797 \(E.D. N.Y. 1968\)](#)

U.S. District Court — Eastern District of New York

Extract

Section 1332 of title 28 of the United States Code grants the district courts jurisdiction in (1) a 'civil action,' involving (2) a 'controversy,' (3) exceeding the 'value of \$10,000,' (4) between 'citizens of different states.' This is a civil action; the subject matter involves fraud and powers of attorney, both of which are 'common heads of equity jurisdiction.' ... Despite occasional extravagant disclaimers, it has long been recognized that the federal courts are competent to determine matters involving some aspects of marital status, either directly or indirectly. The fact that, incidental to the exercise of federal jurisdiction, there is an impact or effect on a matter which is cognizable in the state courts cannot divest the federal court of its power.

Summary

Federal courts have jurisdiction over civil actions involving fraud, even if they have an impact on matters typically handled by state courts, such as marital status. This suggests that the fraudulent scheme described could fall under federal jurisdiction if it involves fraud and parties from different states, as it affects the marital status indirectly.

[18 U.S.C. § 1343](#) [18 U.S.C. § 1343 Fraud By Wire, Radio, Or Television](#)

Extract

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

Summary

The statute addresses fraudulent schemes that involve the transmission of communications across state lines using wire, radio, or television. The situation described in the question involves a scheme to defraud that includes the transmission of funds across state lines, which could potentially fall under this statute. The fraudulent actions, including the transfer of funds and the filing of false documents, could be considered as part of a scheme to defraud, which is relevant to the jurisdictional question.

[28 U.S.C. § 1359](#) [28 U.S.C. § 1359 Parties Collusively Joined Or Made](#)

Extract

A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court.

Summary

The passage from 28 U.S.C. § 1339 indicates that a district court does not have jurisdiction over a civil action if any party has been improperly or collusively made or joined to invoke the court's jurisdiction. This suggests that if the fraudulent scheme was designed to improperly or collusively invoke the jurisdiction of the divorce court, then the court may not have proper jurisdiction over the case. The statute is intended to prevent the manipulation of jurisdiction through collusion or improper actions.

[**28 U.S.C. § 1738A 28 U.S.C. § 1738A Full Faith and Credit Given to Child Custody Determinations**](#)

Extract

A child custody or visitation determination made by a court of a State is consistent with the provisions of this section only if- such court has jurisdiction under the law of such State; and one of the following conditions is met: (A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State; (B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships; (C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because the child, a sibling, or parent of the child has been subjected to or threatened with mistreatment or abuse; (D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody or visitation of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or (E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

Summary

Conditions under which a state court can exercise jurisdiction over child custody or visitation determinations. It emphasizes the importance of the child's home state and the best interest of the child in determining jurisdiction. The fraudulent scheme described in the question could potentially affect jurisdiction if it involves misrepresentations about the child's home state or the best interest of the child.

[18 U.S.C. § 1961 18 U.S.C. § 1961 Definitions](#)

Extract

As used in this chapter- 'racketeering activity' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), ... section 1952 (relating to racketeering), ... 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

Summary

The fraudulent scheme described could potentially fall under the definition of "racketeering activity" as it involves acts that could be considered wire fraud and financial institution fraud. These acts are listed under the provisions of title 18, United States Code, which are considered racketeering activities. If the scheme involves at least two acts of racketeering activity, it could be considered a "pattern of racketeering activity." This could potentially affect the divorce court's jurisdiction if the scheme is prosecuted under federal racketeering laws, as it may involve federal jurisdiction over the criminal aspects of the case.

[Applying the UCCJEA in Family Law](#)

**Family Advocate - American Bar Association - Joseph W. Booth -
2021-04-08**

Extract

Jurisdiction Declined by Reason of Conduct. Id. § 208. Here the focus is on the person who is seeking to invoke the jurisdiction of a court. This provision

allows the court to decline to take jurisdiction if that person engaged in unjustifiable conduct. Unjustifiable conduct is undefined by the statute; therefore, the court has broad discretion.

Summary

A court may decline jurisdiction if the person seeking to invoke it has engaged in unjustifiable conduct. In the context of the question, the fraudulent actions by the mother and her stepfather could be considered unjustifiable conduct, potentially affecting the court's decision to exercise jurisdiction over the divorce proceedings.

This memo was compiled by Vincent AI based on vLex materials available as of June 08, 2025. [View full answer on vLex](#)