

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 20, 2023*

Decided December 21, 2023

Before

DIANE S. SYKES, *Chief Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1780

KIMBERLY JEAN BROWN,
Plaintiff-Appellant,

v.

SCOTT GARTNER, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 20-cv-05195

Andrea R. Wood,
Judge.

ORDER

Kimberly Brown, who sued her former attorneys and their law firms for malpractice, appeals the district court's judgment dismissing her case for lack of diversity jurisdiction. The court found that diversity of citizenship was lacking because

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Brown, like the defendants, is an Illinois citizen. This ruling was an appropriate exercise of the court's discretion, so we affirm.

Brown was a longtime resident of Illinois. She has maintained a law license there since 1995 (continuously listing an Illinois address) and was registered to vote in Chicago as late as 2018. In spring 2018 Brown hired Adam Kingsley and Scott Gartner to represent her in a breach-of-contract suit in Illinois state court against a home-renovation company. At the time, Brown, Kingsley, and Gartner all lived and worked in Illinois. But over the next year, Brown alleged, her relationship with her attorneys soured. She alleged that Kingsley urged her to settle for an unacceptable amount, and that Gartner negotiated a settlement and dismissed the case without her authorization.

Meanwhile, Brown says she “fled”¹ Illinois in August 2018 and spent the next six months living in hotels and with friends and family across the country. In February 2019, she settled in North Carolina, where she rented a home and obtained a North Carolina driver's license. Brown also terminated a rental agreement on a storage locker in Illinois and moved all her furniture to North Carolina. (She now asserts that she started a business there.) But her time in North Carolina was short-lived; in June or July 2019, she says, she no longer could afford rent, and over the next year she lived in RVs or stayed with friends and family across the country. She did, however, keep all her furniture in a storage locker in North Carolina until she could no longer afford to do so, eventually donating the furniture to a charity in North Carolina.

In July 2020, Brown returned to Chicago to see her terminally ill father and help her mother sort out his affairs after he died. She asserts that she stayed at her parents' home, sleeping on the floor of their office.

In September 2020, Brown brought this diversity suit in federal court against Kingsley, Gartner, and their law firms for legal malpractice, breach of contract, and negligent infliction of emotional distress. *See* 28 U.S.C. § 1332. Brown believed that diversity existed because she was a citizen of North Carolina while the defendants were all citizens of Illinois. The defendants moved to dismiss the suit under Rule 12(b)(1) of the Federal Rules of Civil Procedure, arguing, as relevant on appeal, that there was no diversity of citizenship because Brown was a citizen of Illinois.

¹ In her appellate brief, Brown asserts for the first time that her departure was prompted by unspecified threats to her health and welfare in Illinois.

After allowing limited discovery on the jurisdictional question, the district court granted the defendants' Rule 12(b)(1) motion to dismiss for lack of diversity. Even though Brown's complaint satisfied the amount-in-controversy requirement, the judge concluded that Brown was a citizen of Illinois, highlighting the Chicago address she listed on her complaint, the tax return that she filed in Illinois for 2019, and her Illinois law license (which she renewed and, even after 2018, continued to list an Illinois address). The district court also found persuasive Brown's longstanding familial ties to Chicago and emphasized her conduct after filing the complaint—she wrote an email in August 2021 to her employer which suggested that she considered Illinois her home and did, in fact, permanently settle in Illinois.

On appeal, Brown challenges the district court's determination that she was domiciled in Illinois when she filed her complaint in September 2020. She asserts that the court exaggerated her ties to Illinois and minimized those to North Carolina by relying on events that post-dated her complaint and ignoring evidence of her lack of intent to reside in Illinois. She insists that she intended to stay in Illinois only temporarily to help her mother and points to her North Carolina driver's license as proof of an intent to return to North Carolina.

Because issues of fact predominate the question of an individual's citizenship, we review the court's ruling under the highly deferential clear-error standard. *Galva Foundry Co. v. Heiden*, 924 F.2d 729, 729–30 (7th Cir. 1991). Citizenship, for purposes of § 1332, is equated with domicile, and an individual establishes a domicile when they physically reside in a state while simultaneously intending to remain there indefinitely. *Sadat v. Mertes*, 615 F.2d 1176, 1180 (7th Cir. 1980). Factors indicating a party's intent include voter and vehicle registrations, driver's or professional licenses, location of property, relationships, and tax filings. *See Galva Foundry Co.*, 924 F.2d at 730; *Toulon v. Cont'l Cas. Co.*, 877 F.3d 725, 733 (7th Cir. 2017).

The district court did not clearly err in concluding that Brown was domiciled in Illinois at the time she filed this suit. Sufficient evidence in the record reflects that, upon her return to Illinois in July 2020, Brown intended to remain there indefinitely. As the court pointed out, she maintained for years an Illinois law license that listed a Chicago address, was registered to vote in Illinois, had familial ties to the state, and paid her 2019 taxes there. Regarding the last example, Brown counters that she filed her 2019 taxes after she filed her complaint, but this overlooks the larger point that for tax purposes she treated Illinois as her home for the year 2019. To the extent Brown asks us

to reweigh this evidence in her favor, we may not do so under the clear error standard of review. *See Allen v. City of Chicago*, 865 F.3d 936, 945 (7th Cir. 2017).

Brown also contends that the district court improperly considered events after she filed suit to determine her domicile—her exchange of emails with an employer in August 2021 and the fact that she continued to reside in Illinois after filing her complaint. But even if courts ought to adhere strictly to the rule that jurisdiction “depends upon the state of things at the time of the action brought,” *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 570 (2004), the weight of the pre-filing evidence persuades us that the court did not clearly err in determining that Brown was a domiciliary of Illinois when she filed this suit.

AFFIRMED