

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LISA BRESLAW,
Appellant,
vs.
PETER COOPER,
Respondent.

No. 84072-COA

FILED

SEP 12 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *E. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Lisa Breslaw appeals from a district court order dismissing her complaint for lack of personal jurisdiction in a tort action. Eighth Judicial District Court, Clark County; David Barker, Senior Judge.

In the underlying case, Breslaw filed a complaint against respondent Peter Cooper, alleging that a Reddit post purportedly made by Cooper in the r/SubredditDrama subreddit was libelous, and which also sought compensation from Cooper for intentional infliction of emotional distress related to his Reddit comments and activity. Cooper's post, titled "University student makes a dumb decision regarding her professor while applying to grad school, descends over the course of three months into an obsessive stalker who's turned an entire university faculty against her," summarized and linked to several posts made by Breslaw in which she sought advice related to personal and professional issues involving her undergraduate university. Notably, neither Breslaw's nor Cooper's posts identified Breslaw's university by name, nor did they mention the specific names of faculty members described in the posts, although Breslaw alleges that Cooper's post specifically accused her of stalking a University of

Nevada Las Vegas (UNLV) professor, damaging her academic career in Nevada.

Breslaw alleges that the r/SubredditDrama post damaged her ability to apply to graduate schools, as it contained enough specific facts about her situation for her to be identified by university faculty, and also alleges that Cooper and other Reddit users have continued to harass her online. Moreover, Breslaw alleges that the r/SubredditDrama post unfairly characterized her stated admiration for her former history professor as “stalking,” which further damaged her reputation in academic circles.

After receiving service of the complaint, Cooper (through counsel) filed a motion to dismiss the complaint for lack of personal jurisdiction as he was a United States citizen residing in the United Kingdom (UK) at the time of the allegations contained within the complaint and had never resided in Nevada.¹ Following extensive briefing and a hearing on the motion, the district court entered an order granting Cooper’s motion to dismiss, finding that Cooper resided in the UK at all relevant times, and that Cooper did not have the minimum contacts with Nevada necessary to establish specific personal jurisdiction.² Breslaw now appeals.

In her informal brief, Breslaw argues that the district court erred as it did not apply the effects test articulated in *Calder v. Jones*, 465 U.S. 783 (1984). Specifically, Breslaw argues that Cooper knew that his tortious conduct would cause her reputational harm in Nevada, and that

¹It appears that Cooper now resides in the United States.

²Neither party contends that Cooper would be subject to general personal jurisdiction in Nevada.

Cooper was aware that she was a Nevada resident at the time of his actions as her Reddit username contained a Las Vegas area code (725), and because, after she had called the UK police regarding Cooper's continued harassment, the police informed him that a citizen of Las Vegas had contacted them regarding his online activities.

In his answering brief, Cooper refutes these arguments and contends that the United States Supreme Court clarified the *Calder* effects test in *Walden v. Fiore*, 571 U.S. 277 (2014). Cooper argues that, under *Walden*, the effects test does not consider the plaintiff's contacts with the forum state but instead focuses on the defendant's relationship with the forum. Because Cooper's only contact with Nevada is his post concerning Breslaw, Cooper argues that the district court did not err when it granted his motion to dismiss based on lack of personal jurisdiction. In reply, Breslaw argues that Cooper's conduct satisfied the effects test, and that he specifically targeted her (a Nevada citizen), as well as UNLV (as a Nevada university), when he made libelous statements in his r/SubredditDrama post. We agree with Cooper and therefore affirm the order of the district court.

When a defendant challenges personal jurisdiction, the plaintiff bears the burden of demonstrating that Nevada's long-arm statute applies and that the exercise of jurisdiction comports with the principles of due process. *Tricarichi v. Coop. Rabobank, U.A.*, 135 Nev. 87, 90, 440 P.3d 645, 649 (2019) (citing *Fulbright & Jaworski LLP v. Eighth Judicial Dist. Court*, 131 Nev. 30, 36, 342 P.3d 997, 1001 (2015)). At the pleading stage, a plaintiff must make a prima facie showing of personal jurisdiction through affidavits or competent evidence, and the district court "must accept

properly supported proffers as true and resolve factual disputes in the plaintiff's favor." *Id.* Specific personal jurisdiction is proper where the cause of action arises from defendant's contacts with the forum, and to satisfy the principles of due process, "a nonresident defendant must have sufficient minimum contacts with the forum state so that subjecting the defendant to the state's jurisdiction will not offend traditional notions of fair play and substantial justice." *Fulbright*, 131 Nev. at 36, 342 P.3d at 1001 (internal quotation marks omitted). We review the district court's decisions regarding personal jurisdiction de novo. *Tricarichi*, 135 Nev. at 91, 440 P.3d at 650.

When applying the effects test articulated in *Calder v. Jones*, we consider "whether the defendant (1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state." *Tricarichi*, 135 Nev. at 91, 440 P.3d at 650 (internal quotation marks and citations omitted). However, "[d]ue process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the random, fortuitous, or attenuated contacts he makes by interacting with other persons affiliated with the State." *Walden*, 571 U.S. at 286 (internal quotations omitted).

In *Walden*, the supreme court held that the United States Court of Appeals for the Ninth Circuit erred when it examined the defendant's knowledge of the plaintiff's "strong forum connections," rather than reviewing the defendant's own contacts with the forum state. *Id.* at 289. The Court noted that mere injury to a forum resident, without more, is insufficient to establish minimum contacts with the forum state. *Id.* at 290.

Here, Breslaw alleges that (1) Cooper intentionally published a libelous post on r/SubredditDrama, and subsequently continued to harass her on Reddit; (2) that this act was expressly aimed at Nevada through Cooper's knowledge that she resides in Las Vegas; and (3) that because of this knowledge, Cooper knew that the reputational effects of his purportedly libelous post would be felt in Nevada. Breslaw argues that this conduct would subject Cooper to specific personal jurisdiction in Nevada, as he intentionally targeted a Nevada citizen. However, these arguments are unpersuasive as the Ninth Circuit has expressly disavowed the "individualized targeting" theory, which Breslaw advances here, allowing a forum state to exercise specific personal jurisdiction where a "defendant engaged in wrongful conduct targeted at a plaintiff whom the defendant knows to be a resident of the forum state." *See Axiom Foods, Inc. v. Acerchem Int'l, Inc.*, 874 F.3d 1064, 1069-70 (9th Cir. 2017) (holding that "while [] individualized targeting may remain relevant to the minimum contacts inquiry, it will not, on its own, support the exercise of specific jurisdiction, absent compliance with what *Walden* requires").

Moreover, even if we take Breslaw's allegations as true, *Tricarichi*, 135 Nev. at 91, 440 P.3d at 649, she nevertheless fails to establish how Cooper's Reddit activity establishes minimum contacts with *Nevada*, as required by the Court in *Walden*. *See Walden*, 571 U.S. at 289.³

³Although the *Walden* court acknowledged that the opinion did not "present the very different questions whether and how a defendant's virtual 'presence' and conduct translate into 'contacts' with a particular State," 571 U.S. at 290 n.9, the Ninth Circuit's holding in *Axiom*, which contemplated *Walden*'s application to virtual contacts, nevertheless defeats Breslaw's contentions here. *See Axiom*, 874 F.3d at 1070.

Indeed, despite Breslaw's assertion that Cooper expressly mentioned UNLV in his posts and comments (thus purportedly forming a contact with Nevada), a careful review of the screenshots provided by Breslaw in the record on appeal reveal that neither she nor Cooper ever mentioned the name of the university or the faculty members involved, nor does it include any competent evidence that Cooper purposefully directed those posts towards Nevada, rather than towards Breslaw, who happened to be a Nevada resident.⁴ *See id.* at 290 (“The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant’s conduct connects him to the forum in a meaningful way.”); *Axiom*, 874 F.3d at 1069-70; *see also Blessing v. Chandrasekhar*, 988 F.3d 889, 904-06 (6th Cir. 2021) (finding that Kentucky could not establish specific personal jurisdiction over non-resident defendants where defendants’ only actions were posting allegedly libelous tweets on Twitter, as “[t]he tweets ‘did not create sufficient contacts’ with Kentucky ‘simply because’ the plaintiffs [had] Kentucky connections”); *Twin Flames Universe.com, Inc. v. Cole*, 528 F. Supp. 3d 708, 716-17 (E.D. Mich. 2021) (declining to exercise personal jurisdiction because “the ‘focal point’ of the article was not Michigan,” defendant’s “posts to Reddit and other social media outlets were not directed at Michigan or its residents,” and because

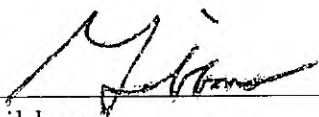
⁴The only reference to Nevada in Cooper (or Breslaw’s) postings on Reddit was that Cooper linked the original r/SubredditDrama post on a later thread in r/LegalAdviceUK wherein he sought advice as to a police contact regarding a complaint from a citizen of Las Vegas. While this may indicate that Cooper eventually became aware that Breslaw was likely a citizen of Las Vegas, it does not demonstrate that Cooper directed his conduct towards Nevada as required by *Walden*.


“[t]he majority of the posts were made in a public subreddit dedicated to followers and those interested in . . . an organization with ‘business across the Internet’”).

Based on the evidence contained in the record on appeal, we conclude that Breslaw failed to make a prima facie showing of specific personal jurisdiction, and therefore, we conclude that Cooper’s alleged contacts with Breslaw are insufficient to support Nevada’s exercise of jurisdiction over Cooper.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

⁵Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 3
Hon. David Barker, Senior Judge
Lisa Breslaw
Raich Law PLLC
Eighth District Court Clerk