

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

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Lyle W. Cayce
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No. 24-50630

PAUL RUSESABAGINA; TACIANA MUKANGAMIJE; ANAISE
UMUBYEYI KANIMBA; AIMEE-LYS RUSESABAGINA; AIME-DIANE
RUSESABAGINA; TRESOR RUSESABAGINA; ROGER
RUSESABAGINA; CARINE IZERE KANIMBA,

Plaintiffs—Appellants,

versus

GAINJET AVIATION, S.A.,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:20-CV-1422

Before STEWART, DENNIS, and HAYNES, *Circuit Judges*.

PER CURIAM:*

In August 2020, Paul Rusesabagina boarded a flight that he believed was headed to Burundi. Unbeknownst to him, the flight was actually headed to Rwanda. Upon exiting the plane, Rusesabagina was kidnapped, tortured, and imprisoned by the Rwandan government.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Rusesabagina and his family sued GainJet Aviation, alleging that the airline company conspired with Rwandan officials to facilitate their kidnapping plot. The district court dismissed the lawsuit against GainJet in its entirety for lack of personal jurisdiction. For the reasons that follow, we REVERSE the court’s personal jurisdiction finding and REMAND for it to determine whether it has subject matter jurisdiction.

I. Background¹

A. Factual Background

1. Rwandan Genocide

In 1994, in the span of about 100 days, hundreds of thousands of members of the Tutsi ethnic group, as well as some members of the Hutu and Twa ethnic groups, were systematically killed in Rwanda. During this genocide, Plaintiff Paul Rusesabagina—the manager of a local hotel—opened his doors to provide shelter for residents fleeing the violence. No one inside the hotel was harmed. His story was recounted in the Oscar-nominated film *Hotel Rwanda*, and he later received the Presidential Medal of Freedom for his acts of bravery.

After surviving an assassination attempt, Rusesabagina left Rwanda in 1996. He now splits his time between San Antonio, Texas, where he is a lawful permanent resident of the United States, and Belgium, where he maintains citizenship. Since leaving, Rusesabagina has been an outspoken critic of Rwandan President Paul Kagame, and he has continued to suffer surveillance, harassment, and threats from the Kagame regime.

¹ Because of the procedural posture in which we hear this appeal, we recount all background facts, and all inferences therefrom, in Rusesabagina’s favor. In other words, we rely on the facts as stated by Rusesabagina as part of this decision only; it is not a reflection of the merits of the case.

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2. Kidnapping Plot

In 2020, a man who identified himself as Bishop Constantin Niyomwungere contacted Rusesabagina at his home in San Antonio. He invited Rusesabagina to speak about the genocide at churches in Burundi. Rusesabagina—a frequent public speaker—agreed.

On August 26, 2020, Rusesabagina boarded a commercial airline and flew from San Antonio to Chicago. From there, he flew to Dubai. Once in Dubai, Niyomwungere and Rusesabagina boarded a private, chartered plane. The two men were the only passengers alongside three crew members who worked for GainJet, the Greek airline company operating the chartered flight. While en route, the GainJet pilot and flight attendant both independently confirmed to Rusesabagina that the plane was headed to Burundi.²

In reality, Niyomwungere, the Rwandan government, and GainJet had conspired to lure Rusesabagina to Rwanda and abduct him. When the flight landed in Rwanda, Rusesabagina learned where he was and began screaming for help. Rwandan security agents boarded the plane, where they blindfolded, gagged, and hog tied Rusesabagina. Although this all happened in plain sight of the GainJet crew, nobody came to his aid. In fact, the pilot scoffed, “Good luck,” while the agents dragged Rusesabagina away.

B. Procedural Background

Rusesabagina and his family sued GainJet and Niyomwungere in December 2020. In November 2021, Plaintiffs voluntarily dismissed all claims against Defendant Niyomwungere because they were unable to serve him with process. In an amended complaint, Rusesabagina asserts six claims

² During a trial held in Rwanda, Niyomwungere testified that everyone on board knew the plane was headed to Rwanda except for Rusesabagina.

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against GainJet: (1) civil conspiracy; (2) fraud; (3) false imprisonment; (4) assault and battery; (5) intentional infliction of severe emotional distress; and (6) violations of international law.

1. Motion to Dismiss

GainJet—an international airline—has virtually no contacts with the state of Texas or the United States. Of the 192 charter flights that GainJet operated around the world in 2020, only thirteen went to/from the United States, and only one was to Texas. The singular Texas flight was for President Kagame’s private visit to the United States in October 2020.³

Because of GainJet’s lack of contacts with the state of Texas, it moved to dismiss the lawsuit for lack of personal jurisdiction. It also moved to dismiss for lack of subject matter jurisdiction, arguing, among other things, that the Montreal Convention,⁴ a treaty governing “international carriage of persons” and to which both the United Arab Emirates and Rwanda are party, prohibits Rusesabagina from recovering in the United States. Montreal Convention art. 1.1, May 28, 1999, S. TREATY DOC NO. 106-45, 1999 WL 33292734. In response, Rusesabagina sought leave to conduct jurisdictional discovery, which the court granted. During discovery, Rusesabagina learned several pieces of key information that suggest GainJet was a willing participant in the kidnapping plot.

³ The October 2020 flight to Texas required the Rwandan government—not GainJet—to obtain all diplomatic clearances from the U.S. Secretary of State.

⁴ The formal name of the Montreal Convention is the Convention for the Unification of Certain Rules for International Carriage by Air, Done at Montreal on 28 May 1999.

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2. Discovery Revelations

The Kagame regime has maintained a business relationship with GainJet for years. In 2011, Kagame transferred his personal planes to Greece. Subsequently, GainJet opened its African headquarters in Rwanda. GainJet frequently flies various Rwandan government officials around the world pursuant to an annual charter contract it holds with the Rwandan government.

In July 2020, the Rwandan government contacted GainJet and paid to charter a plane from Dubai to Rwanda the following month. The government booked the flight over the phone, and the record indicates that GainJet never memorialized the booking in a confirmation email or other written communication.

The private plane arrived in Dubai on August 19. For over a week, it sat on the Dubai tarmac. During this time, GainJet remained in communication with the Rwandan government via telephone. At some point while awaiting Rusesabagina's arrival, GainJet decreased the number of crewmembers assigned to the flight: instead of the four employees originally scheduled, only three crewmembers were dispatched. GainJet never edited the "general declaration"—a document with details of the flight that is submitted to aviation authorities—to reflect this change.

The charter agreement between Rwanda and GainJet requires that all passenger names be sent to GainJet 48 hours prior to their arrival because GainJet cannot leave Dubai without submitting passenger information to security authorities. So, two to three days prior to the plane's takeoff, while Rusesabagina was still in Texas, GainJet received the names and passport

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information of Rusesabagina and Niyomwungere, the only two passengers.⁵ A Rwandan government agent sent Rusesabagina's passport to GainJet's operations manager on WhatsApp. Notably, GainJet could not produce the phone that the operations manager used to communicate with the Rwandan government, asserting that it had been damaged.⁶

At the time of takeoff, GainJet had not issued a ticket to Rusesabagina. This apparently violated the charter agreement GainJet holds with Rwanda, which requires the airline to distribute tickets "for all persons to be transported and their luggage."⁷ Instead, GainJet's handler in Dubai issued the general declaration to the crewmembers, which noted that the plane's final destination was Rwanda. The general declaration was never provided to Rusesabagina.

Even though they were in possession of the details of the flight's destination, the pilot and the flight attendant both told Rusesabagina that they were headed to Burundi. Subsequently, the pilot reported to the GainJet CEO that everything about the trip was normal. Afterward, GainJet did not conduct any internal investigation about the flight, despite the events that unfolded.

⁵ This timing of when GainJet received the passports comes from the GainJet CEO's sworn affidavit. In a subsequent deposition, the CEO said the passports and names came about six hours prior to takeoff. Due to the motion-to-dismiss posture, and without phone records demonstrating when the passport information arrived, we resolve this conflicting testimony in Rusesabagina's favor.

⁶ Rusesabagina maintains that the panel is entitled to infer that the Rwandan agent who sent the passports may have been in Texas during the course of his correspondence with the GainJet operations manager. We take no position on this inference because it is unnecessary for our holding.

⁷ GainJet's CEO insisted in his deposition that GainJet never issues tickets to any of its private passengers. Of course, that's a factual dispute for a jury to decide.

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3. Order Dismissing Case

In June 2024, the district court entered a final judgment, dismissing without prejudice all claims against GainJet for lack of personal jurisdiction. The court “agree[d] with Plaintiffs that much of the jurisdictional evidence suggests that GainJet was aware of or agreed to participate in the kidnapping.” But the court concluded that “GainJet’s intent to kidnap Mr. Rusesabagina does not establish *purposeful* contacts with Texas.” Even if it had assumed that “Mr. Rusesabagina was injured the moment he was lured from his home in San Antonio,” the court reasoned there was no evidence that GainJet itself had a role in convincing Rusesabagina to leave the United States; indeed, the district court was unconvinced any evidence demonstrated that *GainJet* contacted Rusesabagina while he was in Texas. Thus, finding GainJet’s contacts with Texas insufficient under due process to exercise personal jurisdiction, it dismissed the case without prejudice. The district court did not rule on subject matter jurisdiction.

Rusesabagina timely appealed the dismissal order.

II. Jurisdiction and Standard of Review

We have appellate jurisdiction under 28 U.S.C. § 1291 to review the district court’s conclusion that it lacked jurisdiction. We review it *de novo*. *Walk Haydel & Assocs., Inc. v. Coastal Power Prod. Co.*, 517 F.3d 235, 241 (5th Cir. 2008).

A plaintiff ultimately bears the responsibility to prove a court’s jurisdiction by a preponderance of the evidence. *Brown v. Slenker*, 220 F.3d 411, 419 (5th Cir. 2000). Often, this is done at trial. *Id.* But a defendant may challenge the court’s jurisdiction at a time prior to trial by filing a motion to dismiss. FED. R. CIV. P. 12(b)(2). Unless the district court conducts a “full-blown evidentiary hearing,” a plaintiff needs to present only a prima

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facie case of the court's jurisdiction to survive the motion. *Walk Haydel & Assocs.*, 517 F.3d at 241–42.

In response to GainJet's motion to dismiss, the district court permitted the parties to engage in jurisdictional discovery. However, it declined to conduct a hearing and resolve the factual disputes. Thus, our inquiry on appeal is if Rusesabagina has made out a prima facie case of the court's personal jurisdiction over GainJet. We consider the entire record of evidence but construe all disputed facts, and all inferences therefrom, in Rusesabagina's favor when evaluating if he has met his burden. *See id.*

We emphasize that this burden is low. Rusesabagina need not prove the jurisdictional allegations by even a preponderance of the evidence at this stage of the proceedings. *See id.*

III. Discussion

Rusesabagina argues that the district court can properly exercise jurisdiction over GainJet under either of two independently sufficient theories. First, he argues personal jurisdiction lies under *Calder v. Jones*, 465 U.S. 783, 789 (1984), a case adopting a doctrine colloquially referred to as the “effects” test. Second, Rusesabagina argues that if GainJet's independent actions were insufficient under *Calder*, then they were certainly sufficient under a doctrine commonly referred to as “conspiracy jurisdiction.” This doctrine—which we have neither adopted nor foreclosed⁸—permits a court to exercise jurisdiction over a defendant that is part of a conspiracy

⁸ *See, e.g., Guidry v. U.S. Tobacco Co.*, 188 F.3d 619, 631 (5th Cir. 1999) (published case that did “not consider or decide the complex issues of whether the plaintiffs made a prima facie showing that each of the [defendants] . . . had sufficient minimum contacts with Louisiana because it conspired with one or more . . . defendants to commit an intentional or willful act in, or that such act had sufficient effects in, Louisiana”).

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sufficiently connected to the forum state. *See* Naomi Price & Jason Jarvis, *Conspiracy Jurisdiction*, 76 STAN. L. REV. 403, 409 (2024).

We address only the first argument because we conclude that Rusesabagina has made a sufficient showing under the effects test for the district court to exercise jurisdiction over GainJet at this point of the proceedings. Jurisdiction over GainJet is proper in Texas because: (1) GainJet purposely directed its misrepresentation toward Rusesabagina's place of residence; (2) GainJet's misrepresentation set off an unbroken causal chain that resulted in Rusesabagina's injuries; and (3) exerting personal jurisdiction in Texas is consistent with notions of fair play and substantial justice. We do, however, remand to the district court for it to evaluate subject matter jurisdiction in the first instance.

A. Personal Jurisdiction

A federal court in Texas can exercise personal jurisdiction over a foreign defendant only if (1) Texas's long-arm statute, as interpreted by the state's courts, extends to cover the defendant's conduct and (2) exercising jurisdiction is consistent with due process. *Sangha v. Navig8 ShipManagement Priv. Ltd.*, 882 F.3d 96, 101 (5th Cir. 2018); *Johnston v. Multidata Sys. Int'l Corp.*, 523 F.3d 602, 609 (5th Cir. 2008). The Texas long-arm statute extends to the limits of federal due process. *Johnston*, 523 F.3d at 609. So, for federal courts sitting in Texas, the two-step analysis becomes one federal due process analysis. *Id.*

Due process requires that a foreign defendant have "minimum contacts" with the forum state such that exercising jurisdiction over the defendant would be consistent with "fair play and substantial justice." *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (internal quotation marks and citation omitted). How robust a defendant's forum contacts are gives rise to either general jurisdiction or specific jurisdiction. The latter, which

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we address here,⁹ “arise[s] from, or [is] directly related to, the cause of action.” *Lewis v. Fresne*, 252 F.3d 352, 358 (5th Cir. 2001) (quotation omitted). Specific jurisdiction focuses on the relationship between the defendant, the forum, and the litigation. *Walden v. Fiore*, 571 U.S. 277, 283–84 (2014).

To determine if specific jurisdiction is proper, we look at whether: (1) the defendant “purposely directed” its conduct toward the forum state or “purposefully availed” itself of the privileges of the state; (2) the claim arises out of or relates to the defendant’s forum-related contacts; and (3) the exercise of jurisdiction would be “fair and reasonable.” *Carmona v. Leo Ship Mgmt., Inc.*, 924 F.3d 190, 193 (5th Cir. 2019) (quotation omitted); *see Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 362 (2021). Once it checks all three boxes, the court can exercise specific jurisdiction over a nonresident—even a nonresident whose contacts with the forum state are “singular or sporadic.” *Sangha*, 882 F.3d at 101 (quotation omitted).

1. Purposely Directed Toward the Forum State

The *Calder* effects test is a subspecies of specific jurisdiction. It permits courts to exercise jurisdiction over a defendant who purposely directed tortious conduct toward a forum state. *Calder*, 465 U.S. at 789. In *Calder*, National Enquirer employees, who resided in Florida, wrote and edited an article about the plaintiff, who resided in California. *Id.* at 784–86. The Enquirer circulated the article throughout the country, but the plaintiff sued the employees in California court, alleging that the libelous article had damaged her professional reputation. *See id.* The Supreme Court held that the California court could properly exercise jurisdiction over the Florida

⁹ The parties concede that GainJet is not subject to general personal jurisdiction; it is neither incorporated in Texas, nor has its principal place of business in Texas.

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defendants: they wrote and edited an allegedly libelous article “calculated to cause injury to [the plaintiff] in California.” *Id.* at 791. “The fact that the actions causing the effects in California were performed outside the State did not prevent the State from asserting jurisdiction over a cause of action arising out of those effects.” *Id.* at 787.

Walden v. Fiore, 571 U.S. 277 (2014), a subsequent Supreme Court case, illuminates the boundaries of the effects test. There, a law enforcement officer improperly seized money from two Nevada residents while they were in a Georgia airport. *Id.* at 280–81. In concluding that a court in Nevada could not exercise personal jurisdiction over the officer, the Court noted that the officer’s connection to Nevada was fortuitous: no part of the officer’s conduct occurred in Nevada or was directed toward Nevada. *Id.* at 288–89. Importantly for the *Walden* Court, “because publication to third persons is a necessary element of libel,” the effects of the defendants’ conduct uniquely connected the *Calder* defendants to the *forum of California*. *Id.* at 288. Thus, the crux of *Calder* and its progeny is that the effects of the defendant’s conduct must connect him to the *judicial forum*, not just to the plaintiff. *Id.* at 288.

Critically, the effects test does not require that a defendant single out a particular jurisdictional forum in some unique way. *See Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 780 (1984) (holding personal jurisdiction existed in New Hampshire over the defendant even though “[i]t [was] undoubtedly true that the bulk of the harm done to petitioner occurred outside New Hampshire”). So long as the defendant engages in conduct purposely directed toward the forum, then a court can exercise personal jurisdiction over him. *See Wien Air Alaska, Inc. v. Brandt*, 195 F.3d 208, 213 (5th Cir. 1999) (“If this argument were valid in the tort context, the defendant could mail a bomb to a person in Texas but claim Texas had no jurisdiction because it was fortuitous that the victim’s zip code was in Texas. It may have been

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fortuitous, but the tortious nature of the directed activity constitutes purposeful availment.”). This remains true even if a defendant simultaneously directs his intentional conduct toward a different forum. *See Guidry v. U.S. Tobacco Co.*, 188 F.3d 619, 629–30 (5th Cir. 1999); *see also Calder*, 465 U.S. at 785 (exercising jurisdiction in California even though the *Enquirer* was “a national weekly newspaper with a total circulation of over 5 million”). In other words, “conduct directed at other jurisdictions does not negate . . . purposeful availment of [another].” *State v. Volkswagen Aktiengesellschaft*, 669 S.W.3d 399, 420 (Tex. 2023).¹⁰

Further, the effects test permits a court to exercise personal jurisdiction through a third party’s in-state conduct if the defendant is directly responsible for the forum conduct. Of particular relevance is *Simon v. United States*, 644 F.2d 490 (5th Cir. 1981). In *Simon*, a Louisiana resident sued an attorney, a Tennessee resident, in Louisiana district court. *Id.* at 492–93. The plaintiff alleged that the attorney intentionally issued a subpoena (compelling the plaintiff to appear in Georgia) with the plaintiff’s incorrect name and address in Louisiana. *Id.* at 492. The plaintiff was arrested for avoiding compliance with the subpoena. *Id.* at 492–93. We reversed the district court’s dismissal for lack of personal jurisdiction, holding that “the conduct in [the forum] *for which [the defendant] was*

¹⁰ Take, for example, *Guidry v. United States Tobacco Co.*, 188 F.3d 619, 622 (5th Cir. 1999). There, Louisiana plaintiffs sued several tobacco companies and trade associations that were neither domiciled nor incorporated in Louisiana but committed misrepresentations in advertisements around the country. *Id.* at 623. We held that there was personal jurisdiction over the defendants in Louisiana because “each defendant knew that the brunt of [a plaintiff’s] injury would be felt by the plaintiffs . . . in the state in which they live[d].” *Id.* at 630.

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responsible was a *substantial causal factor* in producing the tortious injury alleged.” *Id.* at 499 (emphases added).

We pointed to the defendant’s fault in (1) misaddressing the first subpoena and (2) causing a subpoena ticket of doubtful validity to issue. *Id.* at 497–98. But neither of these contacts was the defendant’s own. *See id.* at 492 n.2, 495 n.8. First, one of the defendant’s associate lawyers completed the erroneous subpoena. *Id.* at 492 n.2. Second, a Louisiana marshal issued the subpoena ticket based on instructions given by a Georgia marshal. *Id.* at 495 n.8. We made the factual inference that the Georgia marshal issued those instructions after a conversation with the defendant-attorney. *Id.* It is thus no obstacle to personal jurisdiction if the defendant’s misconduct—directed at the forum—culminated via the actions of a third party in the state.

We need look no further than *Calder* itself for the third-party principle relied upon in *Simon*. There, the writer and editor defendants crafted the allegedly libelous article in Florida. *Calder*, 465 U.S. at 785–86. The editor had virtually no relevant contacts with California: he did not speak with any sources while they were located in California, and he never traveled to the state for purposes of working on the article. *Id.* at 786. However, he “reviewed and approved the initial evaluation of the subject of the article and edited it in its final form.” *Id.* The publisher—not the editor—then circulated the article in California, where the plaintiff’s reputation suffered. *Id.* at 789.

The Supreme Court found it irrelevant that a third party physically transmitted the article to the forum state and completed the editor’s tortious act. *Id.* The editor worked on an article knowing it “would have a potentially devastating impact upon respondent.” *Id.* Knowing “that the brunt of that injury would be felt by respondent in the State in which she live[d] and work[ed]” was sufficient for a California court to exercise jurisdiction over

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him. *Id.* at 789–90. The upshot of *Simon* and *Calder* is that a defendant need not personally complete the tortious conduct to nevertheless purposefully direct that misconduct toward the forum state. *See id.*

With that background, we turn to whether Rusesabagina, at this stage, has sufficiently demonstrated that GainJet “intentionally directed” its allegedly tortious conduct toward Texas. *Calder*, 465 U.S. at 790. We hold that he has.

The rub of Rusesabagina’s complaint is the allegation that GainJet—through Niyomwungere—provided Rusesabagina with a false flight itinerary. Niyomwungere told Rusesabagina that GainJet would fly them to Burundi. Behind the scenes, the Rwandan government paid GainJet to intentionally misrepresent its flight destination so that Rusesabagina could be detained upon arrival.

The unique nature of GainJet’s alleged fraud “tether[s] [GainJet] to [Texas] in a[] meaningful way.” *Walden*, 571 U.S. at 290. First, had Rusesabagina known that GainJet would fly him to Rwanda, Rusesabagina would never have left Texas’s sovereign borders. *See id.* at 287–88 (focusing on “the nature of the libel tort” when concluding that the “effects” of the tort connected the defendant to California). Second, while Rusesabagina was at his home in San Antonio, he turned over his passport information to a Rwandan official.¹¹ The Rwandan official then turned over the passport to GainJet’s operations manager, all while Rusesabagina was still in Texas, so that GainJet could fly out of Dubai. As alleged, at least one element of the tort occurred in Texas. *See Eagle Props., Ltd. v. Scharbauer*, 807 S.W.2d 714,

¹¹ It is unclear from the record how the Rwandan government official received Rusesabagina’s passport. It appears that Rusesabagina likely sent it to Niyomwungere who then sent it to a Rwandan official.

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723 (Tex. 1990) (“The elements of actionable fraud are that: (1) a material representation was made; (2) the representation was false; (3) when the representation was made the speaker knew it was false or made it recklessly without any knowledge of its truth and as a positive assertion; (4) the speaker made the representation with the intent that it should be acted upon by the party; (5) *the party acted in reliance upon the representation*; and (6) the party thereby suffered injury.” (emphasis added)); *cf. Walden*, 571 U.S. at 288 (stating that no part of the tort occurred in Nevada). Thus, GainJet’s misrepresentation was uniquely connected to Texas.

But how do we know it was *GainJet*’s false itinerary that caused Rusesabagina to leave Texas? After all, GainJet argues that the only affirmative lie allegedly told by any of *its* employees was told on the plane, when the flight attendant and captain advised him that they were headed to Burundi. GainJet maintains it was *Niyomwungere*’s misrepresentation about the final destination that caused Rusesabagina to leave Texas. But that is where GainJet runs squarely into the burden of proof at this stage of the proceedings.

Just as we made the reasonable inference in *Simon* that the marshal issued instructions after a conversation with the defendant attorney, we make the reasonable inference here that Niyomwungere lied to Rusesabagina about the final leg only after he received the go-ahead from GainJet. *See Simon*, 644 F.2d at 498.

Controverted evidence—which we must construe in Rusesabagina’s favor—makes this inference reasonable. First, we have the unique relationships between Rusesabagina, Rwanda, and GainJet. The record shows that GainJet provided international transportation services to the political leaders of Rwanda for years and that Rusesabagina was publicly critical of the Rwandan government. Second, this particular plane sat on the

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tarmac for days, awaiting Rusesabagina's arrival. During this time, GainJet spoke with the Rwandan government on the phone without memorializing its communications. It then reduced the number of its flight crew but failed to properly update the flight's general declaration to reflect the reduction. Further, GainJet's charter agreement requires that it issue passenger tickets, but it never provided one to Rusesabagina. Finally, GainJet employees on the plane perpetuated the scheme, lying to Rusesabagina about the final destination and reporting the unfolded events as "normal." In toto, the record suggests that this kidnapping plan was complex and detailed. It is therefore reasonable to infer that Niyomwungere would not have conveyed the itinerary to Rusesabagina without first receiving GainJet's permission and assurances that all would go as planned.

Despite the evidence regarding the kidnapping plot, the district court ruled that GainJet had no reason "to know or believe that the effects of its tortious conduct would be felt in Texas." But this reasoning falls short. As noted in *Volkswagen Aktiengesellschaft*, it is irrelevant whether the harm was equally foreseeable to occur in Belgium (where Rusesabagina is a citizen) or in Texas (where he lives). *See* 669 S.W.3d at 420. Just as the tobacco company in *Guidry v. United States Tobacco Co.*, 188 F.3d 619, 630 (5th Cir. 1999), "knowingly initiated and aimed" misleading ads at potential consumers around the country, GainJet "knowingly initiated and aimed" false information at Rusesabagina, wherever he resided. In sum, because GainJet knew it was luring Rusesabagina away from his home, which is in San Antonio, a Texas court can exercise personal jurisdiction.

Overall, Rusesabagina felt the "effects" of GainJet's misrepresentation in Texas, GainJet aimed its misrepresentation toward Rusesabagina's place of residence, and GainJet's false itinerary was a "substantial causal factor" for Niyomwungere's conveyance of false information in Texas. *Simon*, 644 F.2d at 499; *see Guidry*, 188 F.3d at 629–

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30; *see also Wien Air Alaska*, 195 F.3d at 213 (noting that as long as a defendant directs fraudulent communications toward a forum that give rise to a cause of action for fraud, the defendant cannot escape jurisdiction by arguing that the plaintiff was “fortuitously” in the forum); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980) (“[T]he foreseeability that is critical to due process . . . is that the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.”). We therefore hold that the allegations demonstrate GainJet purposely directed its conduct toward Texas.

2. Arises Out of or Relates to

Step two of the inquiry asks if the injury arises out of or relates to GainJet’s forum-related contacts. *Carmona*, 924 F.3d at 193; *Ford Motor Co.*, 592 U.S. at 362. To arise out of or relate to the defendant’s contacts with the forum, there must be “an affiliation between the forum and the underlying controversy, principally, an activity or an occurrence that takes place in the forum State and is therefore subject to the State’s regulation.” *Bristol-Myers Squibb Co. v. Superior Ct. of Cal.*, 582 U.S. 255, 262 (2017) (citation modified) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)). First, we look to causation. *Ford Motor Co.*, 592 U.S. at 362. But if causation is lacking, we may also “contemplate[] that some relationships will support jurisdiction without a causal showing.” *Id.*

Here, Rusesabagina asserts six claims against GainJet: (1) civil conspiracy; (2) fraud; (3) false imprisonment; (4) assault and battery; (5) intentional infliction of severe emotional distress; and (6) violations of international law. As outlined above, we can reasonably infer that but for Rusesabagina’s reliance on false flight information that came, even if indirectly, from GainJet, none of his alleged injuries would have occurred.

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Because Rusesabagina's claims hinge on GainJet's alleged conveyance of false flight information to Rusesabagina while he was still in Texas, all six claims are affiliated with that allegation. Thus, it is reasonable at this stage to find that all six claims "arise from" GainJet's contacts with Texas.

3. Fair and reasonable

Because we hold that Rusesabagina has satisfied the first two elements of the personal jurisdiction inquiry, the burden shifts to GainJet to make a compelling case that exercising jurisdiction is neither fair nor reasonable in light of "fair play and substantial justice." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476 (1985) (quoting *Int'l Shoe Co.*, 326 U.S. at 320); *Carmona*, 924 F.3d at 193. We weigh five factors when determining if GainJet has met this burden: "(1) the burden on the nonresident defendant, (2) the forum state's interests, (3) the plaintiff's interest in securing relief, (4) the interest of the interstate judicial system in the efficient administration of justice, and (5) the shared interest of the several states in furthering fundamental social policies." *Hardy v. Scandinavian Airlines Sys.*, 117 F.4th 252, 267 (5th Cir. 2024) (quoting *E. Concrete Materials, Inc. v. ACE Am. Ins. Co.*, 948 F.3d 289, 298 (5th Cir. 2020)), *cert. denied*, 145 S. Ct. 1308 (2025).

On the whole, GainJet has not established a compelling case that the exercise of jurisdiction over it would be fundamentally unfair. First, although GainJet is based in Greece, GainJet operates internationally, with flights to the United States. The burden of litigation-related international travel falls lighter on an international airline company. *See Hardy*, 117 F.4th at 267. Second, and most importantly, Texas has a compelling interest in protecting its residents from foreign entities that fraudulently reach into the state to kidnap and torture its residents. This interest is weightiest when the harm arises from a targeted, international conspiracy. Third, as a Texas resident

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who was kidnapped during international travel, Rusesabagina has a significant interest in obtaining convenient and effective relief through a lawsuit in his own home—not internationally. *See, e.g., id.* at 256, 268 (determining that the plaintiff, who sued a Scandinavian airline after she fell off a plane in Norway, had a “vested interest in being able to pursue her claim” in Louisiana because she “live[d] in and had her life-care plan in the U.S.”).

GainJet’s arguments seem to focus on the fourth factor: It contends that litigating in Texas would be inefficient when all witnesses, documents, and evidence relevant to the alleged conspiracy are located in the UAE, Greece, Rwanda, and Belgium. While that might be true, that fact alone cannot outweigh the other factors, especially the fifth—the fundamental social policies at stake. A state has a sovereign interest in the physical integrity of its territory and the shield of legal protections that it provides to lawful residents. Rusesabagina, as a political dissident, purposefully chose Texas as a refugee escaping the Kagame regime. On balance, the scales tip in favor of a holding that it is fair for GainJet to be haled into Texas federal court.

In sum, we hold that the record demonstrates a *prima facie* case of personal jurisdiction over GainJet. We thus REVERSE the district court’s order dismissing for lack of personal jurisdiction.

B. Subject Matter Jurisdiction

GainJet raises a host of objections to the court’s exercise of subject matter jurisdiction. But because courts can determine personal jurisdiction challenges before resolving subject matter jurisdiction challenges, *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 578 (1999), the district court did not resolve those issues.

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“Appellate courts generally sit as courts of review, not first view.” *Utah v. Su*, 109 F.4th 313, 320 (5th Cir. 2024) (citation modified). Without full briefing before the district court and an opinion to review, we see no reason to resolve the rest of the jurisdictional challenges at this point. We thus REMAND to the district court to resolve the challenges to its subject matter jurisdiction in the first instance. *See Sentry Ins. v. Morgan*, 101 F.4th 396, 399–400 (5th Cir. 2024) (per curiam) (remanding to district court for it to consider jurisdictional arguments “in the first instance”).

IV. Conclusion

For the foregoing reasons, we REVERSE the district court’s dismissal for lack of personal jurisdiction and REMAND for the district court to determine subject matter jurisdiction.