

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-3672  
Conference Calendar

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EMMETT SPOONER,

Plaintiff-Appellant,

versus

WEST BATON ROUGE PARISH  
SCHOOL BOARD MEMBERS ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CA 91 001059  
- - - - -  
(October 29, 1993)

Before POLITZ, Chief Judge, and SMITH and WIENER, Circuit Judges.

PER CURIAM:\*

Emmett Spooner's claims that the defendants, members of the West Baton Rouge School Board, violated his rights by exercising Act 994 of the 1985 Regular Session of the Louisiana Legislature, LA. REV. STAT. ANN. 42:1411, were previously dismissed by final judgments rendered in Spooner v. West Baton Rouge Parish School Board, et al. (Spooner I), 526 So.2d 851 (La. Ct. App. 1988), cert. denied, 531 So.2d 479 (La. 1988) and Spooner v. West Baton

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Rouge Parish School Board (Spooner II), 709 F.Supp. 705 (M.D. La. 1989).

Spooner previously alleged a violation of his right to due process in Spooner II, 709 F.Supp. at 708-09. He did not succeed. Id. Spooner challenged the constitutionality of Act 994 before a special three-judge panel appointed pursuant to the Voting Rights Act of 1964, Id. at 707-08, and in Spooner I, 526 So.2d 852-54. The panel and the state court dismissed Spooner's suits. See Spooner II, 709 F.Supp at 708; Spooner I, 526 So.2d at 854.

The district court dismissed Spooner's suit *sub judice* under the doctrine of *res judicata*. The doctrine of *res judicata* has three requirements: (1) a valid, final judgment on the merits from a court of competent jurisdiction; (2) identical claims in the two suits; and (3) an identity of parties between the two proceedings. Clark v. Amoco Production Co., 794 F.2d 967, 972 (5th Cir. 1986). A final, valid judgment of Spooner's current claim was entered against him in Spooner II, 709 F.Supp. at 708-09. Most of the listed parties in that proceeding are identical to the parties listed in this action. Cf. R. 1-2; Spooner II, 709 F.Supp. at 707. The district court did not err in applying *res judicata* as to those parties.

Defendants Clifford Anderson, Anderson Johnson, Ronald "Blue" LeBlanc, and Cynthia Crochet of the West Baton Rouge Parish School Board and Adrian DuPont and Ken Dejean of the Louisiana Attorney General's Office are not listed as prior defendants and the doctrine of *res judicata* is not available to

them. Nevertheless, this does not prohibit the application of the doctrine of collateral estoppel to the claim against them.

Before collateral estoppel can bar a lawsuit, three elements must exist: (1) the issue at stake must be identical to the one involved in the prior litigation; (2) the determination of the issue in the prior litigation must have been a critical, necessary part of the judgment in that earlier action; and (3) the special circumstances must not exist which would render preclusion inappropriate or unfair.

Texas Pig Stands, Inc. v. Hard Rock Cafe Int'l, Inc., 951 F.2d 684, 691 (5th Cir. 1992).

This Court may affirm the district court's judgment on alternative grounds. See Hanchey v. Energas Co., 925 F.2d 96, 97 (5th Cir. 1990). Spooner unsuccessfully litigated the germane issues of the constitutionality of Act 944 and the violation of his due process rights in two prior suits. There are no special circumstances that would render issue preclusion inappropriate or unfair.

AFFIRMED.