

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7221
Conference Calendar

RANDY SCOTT CORLEY,

Plaintiff-Appellant,

versus

LEE ROY BLACK ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:91-CV-195
- - - - -

June 24, 1993

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

PER CURIAM:*

Federal courts must give the same preclusive effect to a state-court judgment as would the courts of the state rendering the judgment. McDonald v. City of West Branch, Mich., 466 U.S. 284, 287, 104 S. Ct. 1799, 80 L. Ed. 2d 302 (1984). Nothing in the language or legislative history of 42 U.S.C. § 1983 provides any congressional intent to deny binding effect to a state-court judgment or decision when the state court, acting within its proper jurisdiction, has given the parties a full and fair

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

opportunity to litigate federal claims, and thereby has shown itself willing and able to protect federal rights. Allen v. McCurry, 449 U.S. 90, 103-04, 101 S. Ct. 411, 66 L. Ed.2d 308 (1980).

Mississippi law gives res-judicata effect to all issues tried in a prior lawsuit, as well as all matters that should have been litigated and decided in a prior suit, provided, of course, that the four identities of res judicata are present. Riley v. Moreland, 537 So.2d 1348, 1354 (Miss. 1989). Those identities are: (1) identity of the subject matter of the action; (2) identity of the cause of action; (3) identity of the parties of the cause of action; and (4) identity of the quality or character of the persons against whom the claim is made. Id.

Randy Scott Corley concedes that this action and the action he previously brought in state court concern the same defendants and claims. He argues, however, that res judicata should not apply because he was not able to appeal the state dismissal. Mississippi law authorizes in forma pauperis proceedings in civil cases at the trial level only. See Nelson v. Bank of Mississippi, 498 So.2d 365, 365 (Miss. 1986). According to Corley, he was not given a full and fair opportunity to litigate the claims in state court.

As support, Corley relies on Young v. Williams, 91-7153 (5th Cir. 1992), an unpublished summary-calendar opinion from this Court. There, this Court remanded the case for a determination whether a state-court remedy precluding appeal is a meaningful postdeprivation remedy under Hudson v. Palmer, 468 U.S. 517, 104

S.Ct. 3194, 82 L. Ed. 2d 393 (1984). In Hudson, the Supreme Court ruled that an unauthorized intentional deprivation of property by a state employee does not violate due process if "a meaningful postdeprivation remedy for the loss is available." 468 U.S. at 533. Young and Hudson do not address the issue of res judicata.

Under Mississippi law, Corley was given a full and fair opportunity to litigate the claims he attempts to raise in federal court. The doctrine of res judicata, therefore, precludes him from raising those claims a second time. Furthermore, Corley is trying to use a § 1983 suit to overrule, in effect, a prior state-court judgment. This he cannot do. Howell v. Supreme Court of Tex., 885 F.2d 308, 311 (5th Cir. 1989), cert. denied, 496 U.S. 936 (1990); Hale v. Harney, 786 F.2d 688, 690-91 (5th Cir. 1986). Accordingly, the district court did not err in dismissing his suit.

AFFIRMED.