United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
August 24, 2026
Lyle W. Cayce
Clerk

No. 26-20123
Summary Calendar

Richard S. Ohendalski,

Plaintiff—Appellant,

versus

United States of America,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:25-CV-3316

Before Haynes, Graves, and Ramirez, *Circuit Judges*.

Per Curiam:*

In 2014, the Internal Revenue Service (IRS) assessed income taxes against Plaintiff Richard S. Ohendalski for the 2002, 2003, and 2004 tax years. He petitioned the Tax Court for redetermination. He and the Government reached a settlement, and the Tax Court found him liable for tax deficiencies, late-filing penalties, and civil-fraud penalties. Ohendalski

* This opinion is not designated for publication. *See* 5th Cir. R. 47.5.

appealed the decision, and a panel of this court affirmed the judgment. *Ohendalski v. Comm'r*, 605 F. App'x 457, 457 (5th Cir. 2015) (per curiam).

In 2022, the IRS sued Ohendalski to collect those taxes. In 2023, the IRS recovered the 2002, 2003, and part of the 2004 taxes through a jeopardy levy. In December of that year, he paid the remaining balance.

In July 2025, Ohendalski sued under 26 U.S.C. § 7422(a), seeking tax refunds for the same 2002, 2003, and 2004 tax years. The United States moved to dismiss. The magistrate judge recommended dismissal on res judicata (claim preclusion) grounds, and the district court adopted the recommendation and dismissed the case with prejudice. Proceeding pro se, Ohendalski appeals. We AFFIRM.

I. STANDARD OF REVIEW

"The res judicata effect of a prior judgment is a question of law that this court reviews de novo." *Test Masters Educ. Servs., Inc. v. Sing*h, 428 F.3d 559, 571 (5th Cir. 2005).

II. DISCUSSION

"Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Oreck Direct, LLC v. Dyson, Inc.*, 560 F.3d 398, 401 (5th Cir. 2009) (citation omitted).

A. Res Judicata Elements

A claim is barred by res judicata if four elements are met: "(1) the parties must be identical in the two actions; (2) the prior judgment must have been rendered by a court of competent jurisdiction; (3) there must be a final judgment on the merits; and (4) the same claim or cause of action must be involved in both cases." *Id.* (citation omitted).

Ohendalski does not dispute that the first two elements are met.

1. Final Judgment on the Merits

Ohendalski first argues that the third element is not met because the settlement in his prior action did not adjudicate all the issues raised by his refund claims. The Government disagrees.

As even Ohendalski concedes, his current "refund claims assert that certain amounts previously treated as taxable income were not in fact taxable income." That tax liability was the subject of the prior action. And a judgment pursuant to settlement is a final judgment for res judicata purposes. *Matter of Teal*, 16 F.3d 619, 622 (5th Cir. 1994) ("An agreed judgment is entitled to full res judicata effect."(citation omitted)). So Ohendalski's argument on this third element fails.

2. Same Claim or Cause of Action

Ohendalski next argues that federal law allows a taxpayer to bring a refund suit only after the assessed tax is paid and an administrative refund claim is filed with the IRS. He posits that because of this, "the cause of action asserted here did not arise during the earlier litigation relied upon by the district court." And since res judicata applies only to claims that could have been raised in the earlier action, "[a]pplying res judicata to extinguish [a statutory] remedy before the taxpayer has an opportunity to invoke it would undermine the statutory framework established by Congress."

The Government counters that because the earlier litigation and the present action involve Ohendalski's tax liability for 2002–2004, the district court correctly found that this action is barred by res judicata.

Ohendalski has not provided authority supporting his argument that a newly available statutory remedy means that res judicata does not apply. To determine whether the fourth res judicata element is met, a court applies the "transactional test, which requires that the two actions be based on the same nucleus of operative facts." *Oreck Direct*, 560 F.3d at 402 (citation modified). In this analysis, courts do not look "to the legal theories advanced, forms of relief requested, [or] types of rights asserted." *United States v. Davenport*, 484 F.3d 321, 327 (5th Cir. 2007). Courts must ask whether the suits concern the same nucleus of operative *facts*, not the same statute providing the cause of action.

In the previous litigation, Ohendalski challenged the amount of taxes assessed against him. Now he seeks a refund of those taxes. Regardless of how he styles his argument, his prior and current litigation involve the same operative facts: his tax liability for the years 2002, 2003, and 2004. And "[t]he tax liability of a particular tax for a particular taxable year is a single cause of action." *Id.* at 326.

III. CONCLUSION

For the foregoing reasons, the judgment of the district court is AFFIRMED.