NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 2, 2024*
Decided May 3, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-3353

WAYDE COLEMAN,
Plaintiff-Appellant,

v.

JOSH A. PETERS, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.

No. 1:23-cv-00617-RLY-MKK

Richard L. Young,
Judge.

O R D E R

Wayde Coleman appeals the summary judgment disposing of his lawsuit against the Treasurer of Marion County, Indiana, and other public and private parties, challenging the County's acquisition of his property by operation of state law and the

* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

transfer of that property to a local nonprofit organization. We agree with the district judge that Coleman's claims are barred by res judicata, and we affirm.

Winding proceedings led to the ultimate sale of Coleman's property, but as best we can tell, the relevant facts are as follows. In 2006, Coleman purchased a residence in Indianapolis. He failed to pay the property taxes for several years, so the County notified him, in 2010, that it intended to sell the house in a tax sale. Proceedings stalled, and although a state court ordered that the County was entitled to a tax deed, the County did not take the necessary action to obtain it. Coleman then began investing money in the property. In 2014, the County obtained the tax deed, but Coleman successfully argued that it was void because he had not received proper notice, and the property was his once more.

By 2017, Coleman owed even more unpaid taxes. The County again took steps to sell the property. It didn't sell, so the County placed a lien on the property for $33,000. *See* IND. CODE ANN. § 6-1.1-24-6 (West). Coleman had 120 days to redeem the property for that amount but did not do so. *See id.* § 6-1.1-25-4. The County returned to state court to obtain a new tax deed, which was granted over Coleman's objection.

In early 2019, County officials sold the property to Covenant Community Housing, a local organization that provides homes for disadvantaged families. Covenant was eligible to receive the transfer through a state-authorized program to transfer properties with delinquent taxes to nonprofit entities. *See id.* § 6-1.1-24-6.7. Coleman petitioned in state court to void the tax deed (and thus the sale). The state court temporarily halted the sale to give Coleman the opportunity to be heard, but it ultimately concluded that the transfer was valid. Coleman appealed, but his appeal was dismissed as untimely in March 2022. *Coleman v. Marion Cnty. Treasurer*, 186 N.E.3d 616 (tbl.), 2022 WL 791732 (Ind. Ct. App. 2022).

While this state litigation was ongoing, Coleman filed the first of two lawsuits in federal court in December 2019. He alleged that the Treasurer was conspiring with the City of Indianapolis, Covenant, and several individual defendants to fraudulently transfer his property to Covenant—which, he believed, was not really a nonprofit—to gentrify the neighborhood. He asserted a litany of legal theories including alleged violations of his First, Fourth, and Fourteenth Amendment rights. The district judge gave Coleman three opportunities to amend his complaint to comply with Rule 8(a)(2) of the Federal Rules of Civil Procedure (requiring a short, plain statement of the claim entitling the plaintiff to relief). But each time Coleman amended, he failed to correct the deficiencies, and the judge ultimately dismissed his case under 28 U.S.C.

§ 1915(e)(2)(B)(ii) for failure to state a claim upon which relief could be granted. After Coleman requested clarification, the judge explained that the dismissal was with prejudice and without further leave to amend, adding: "If Coleman desires to pursue any claims against defendants (with or without counsel), he must file a new action with a new complaint under a new case number."

Two years later, in April 2023, Coleman sued again in federal court, naming a subset of the defendants he had sued in 2019. He again alleges that the defendants conspired to fraudulently transfer his property to Covenant in a bid to gentrify the neighborhood. After the defendants moved to dismiss the complaint based on res judicata and other defenses, the district judge sua sponte ordered Coleman to show cause why the judge should not enter summary judgment against him based on res judicata. Coleman objected, arguing that the claims in his second suit involved events that occurred after his first case was dismissed, that the district judge in the first lawsuit had expressly reserved his claims for future adjudication, and, alternatively, that the judge in the second case should construe his complaint as a motion for relief from the first judgment under Rule 60(b) of the Federal Rules of Civil Procedure. But the district judge concluded that the second lawsuit was barred by res judicata and entered judgment for the defendants. Coleman appeals, and we review the decision de novo. *Bell v. Taylor*, 827 F.3d 699, 706 (7th Cir. 2016).

Coleman argues that the district judge erred in determining that his case was barred by res judicata, also known as claim preclusion. The federal claim preclusion rules apply here because a federal court rendered the first judgment. *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008). Claim preclusion applies when a court has rendered a final judgment on the merits, and a plaintiff later raises the same claims, or claims that could have been brought, against the same defendants or their privies. *United States ex rel. Conner v. Mahajan*, 877 F.3d 264, 271 (7th Cir. 2017). Coleman contends that claim preclusion does not apply here because his current claims differ from the ones he brought previously. But he does not explain how those claims differ, nor is it clear from comparing the complaints in the two cases. Regardless, "we are not limited to the words in the complaint"; instead, we must "discern the basis of the litigation." *Daza v. Indiana*, 2 F.4th 681, 684 (7th Cir. 2021). And Coleman's claims here have the same factual basis as those in his first case—the County's acquisition of Coleman's property and the transfer of that property to Covenant in 2019. *See id.* To the extent he raises new legal theories, he fails to show that he could not have raised them in the first lawsuit.

True, as Coleman argues, claim preclusion does not bar claims that had not accrued when he filed the first federal lawsuit. *Cooper v. Retrieval-Masters Creditors Bureau, Inc.*, 42 F.4th 688, 697 (7th Cir. 2022). But the events he describes in his operative complaint in the second lawsuit, except some of the court proceedings, took place before he filed the complaint in the first case. Otherwise, the only "new" event Coleman identifies in his brief is his purported discovery that Covenant is not a nonprofit entity eligible for the state program through which it obtained his property. The record belies this, but, in any event, he had also alleged in the first case that Covenant was not a qualified organization. The additional evidence he cites now does not transform this duplicative case into an original one. *See id.* at 697–98. Likewise, the district judge did not err, as Coleman contends, by not considering the significance of the evidence he offered to support claims that were precluded.

And although Rule 60(b)(2) allows relief from a judgment based on newly discovered evidence, here the district judge correctly concluded that it would not help Coleman to construe the complaint as a motion under Rule 60(b)(2) because he filed it more than one year after the entry of judgment in his first suit. FED R. CIV P. 60(c)(1). An even more fundamental problem is that he did not file the "motion" in the case that produced the judgment from which he sought relief.

Finally, Coleman argues alternatively that claim preclusion does not apply because his claims were expressly reserved for later adjudication. *See Cooper*, 42 F.4th at 697. In support, Coleman points to the clarification offered by the judge in his first lawsuit, explaining that dismissal with prejudice meant that he could not file another amended complaint and instead would have to "file a new action with a new complaint under a new case number." But Coleman makes too much of this comment. The express-reservation exception applies to claims saved for "later" adjudication—i.e., not yet adjudicated. *See id*. Here, the first judge adjudicated all Coleman's claims by dismissing them with prejudice.

We have considered Coleman's remaining arguments, but none has merit.

AFFIRMED