

NONPRECEDENTIAL DISPOSITION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 26, 2023*

Decided May 30, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 22-3089

THOMAS DECOLA,
Plaintiff-Appellant,

v.

STARKE COUNTY COUNCIL, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

No. 3:20-CV-869 JD

Jon E. DeGuilio,
Chief Judge.

ORDER

Thomas DeCola unsuccessfully challenged in state court the vote of the Starke County Council in Indiana to remove him from his elected seat after he threatened to expel from the county certain racial and religious groups. Having lost in state court, DeCola pursues this federal suit, re-alleging that the vote of the Council and its

* We have agreed to decide the 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).

members deprived him of his right to due process. The district court rightly concluded that claim preclusion bars this suit; thus, we affirm.

DeCola's election to the Starke County Council in November 2018 was short-lived. At his first meeting in January 2019, council members questioned DeCola about his conduct at a December gathering of Indiana elected officials. According to the council members, at that gathering DeCola used vulgar epithets to describe racial and religious groups that he wanted to expel from the county. At the next month's council meeting, the five other council members all voted to unseat DeCola for violating his official duties.

DeCola challenged his removal in state proceedings and lost. First, he filed a state administrative action alleging that the Council violated his due process rights when it removed him. After losing there, he sought review in state court, and after a change in venue, the Marshall Superior Court ruled that DeCola did not state a due process claim and dismissed his suit. A state appellate court affirmed the dismissal. *DeCola v. Starke Cnty. Council*, 172 N.E.3d 709 (Ind. Ct. App. 2021) (table decision). The state supreme court declined to hear an appeal. *Id.*, *trans. denied*, 176 N.E.3d 453 (Ind. 2021) (table decision).

Meanwhile, DeCola turned to federal district court, again suing the Council and the members who voted to unseat him and alleging that they violated his due process rights. 42 U.S.C. § 1983. The district court initially stayed the case in deference to the ongoing state-court proceedings. *See Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 813 (1976). But once those ended, the district court granted the defendants' motion for judgment on the pleadings based on the defense of claim preclusion.

On appeal, the Council argues that DeCola's appellate argument is undeveloped and the appeal should be dismissed. FED. R. APP. P. 28(a)(8). We liberally construe the pleadings of litigants representing themselves, and in his brief DeCola attempts to argue why the district court erred. *See Atkins v. Gilbert*, 52 F.4th 359, 361 (7th Cir. 2022). We prefer to decide cases on the merits when we can, *see id.*, and we can do so here.

The district court correctly concluded that, based on his earlier loss in state court, claim preclusion blocks DeCola's federal claim. Under the Full Faith and Credit Act, 28 U.S.C. § 1738, we apply Indiana law to determine whether a prior state judgment precludes this suit. *See Robbins v. MED-1 Sols., LLC*, 13 F.4th 652, 656 (7th Cir. 2021). Relying on matters of public record, the Council has shown that all the elements of

claim preclusion are present. *See Ind. State Ethics Comm'n v. Sanchez*, 18 N.E.3d 988, 993 (Ind. 2014). The state-court ruling was a judgment on the merits, the judgment was between the same parties (or their representatives), and it adjudicated essentially the same due process claim. *See id.* For purposes of preclusion, it does not matter that the state suit started as an administrative proceeding. State administrative rulings that, as here, "have been subjected to state judicial review are entitled to both claim and issue preclusive effect in federal courts." *Staats v. County of Sawyer*, 220 F.3d 511, 514 (7th Cir. 2000) (citing *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 481–82 n.22 (1982)). Finally, DeCola has identified no claim in this federal case that he could not have raised in the state suit.

AFFIRMED