STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0520

Erik Peterson,
Appellant,

vs.

Deborah Ellis, et al.,
Respondents.

Filed December 28, 2020
Affirmed
Bratvold, Judge

Ramsey County District Court
File No. 62-CV-19-3585

Keith D. Johnson, Law Office of Keith D. Johnson, P.L.L.C., Roseville, Minnesota (for appellant)

Paul C. Peterson, William L. Davidson, João C.J.G. de Medeiros, Lind, Jensen, Sullivan & Peterson, P.A., Minneapolis, Minnesota (for respondents)

Considered and decided by Slieter, Presiding Judge; Bratvold, Judge; and Cochran, Judge.

U N P U B L I S H E D O P I N I O N

BRATVOLD, Judge

Appellant challenges the district court's dismissal of his legal-malpractice complaint for failing to state a claim upon which relief can be granted under Minn. R. Civ. P. 12.02(e). Appellant's complaint alleges facts from two prior legal actions. His

legal-malpractice claim hinges on his allegation that respondents negligently advised him to enter a guilty plea and obtain a stay of adjudication in his criminal case and that doing so would not affect his civil-rights claim against the officers involved. Relying on this advice, appellant alleges he entered a guilty plea and obtained a stay of adjudication, but later suffered the dismissal of his civil-rights claim based on his admission of guilt. Because the district court correctly determined that appellant's criminal proceedings did not involve a final adjudication on the merits, and therefore, did not collaterally estop appellant's underlying civil-rights claim, we affirm.

FACTS

These facts summarize the allegations of appellant Erik Peterson's complaint, which we assume to be true, as is required on a motion to dismiss a complaint.

Parking citation and arrest

In January 2014, Peterson received a traffic citation for parking a car for over 12 hours in a city lot. That same day, Peterson went to a North Saint Paul police station and asked a police captain whether the police were "so lazy that they would not come to ask him to move his vehicle." The captain stepped toward Peterson and in a "loud angry voice told him to back down." Peterson and the captain continued to argue. The captain then lowered his head and shoulder and walked past Peterson, "striking him in the chest with his right shoulder and pushing [Peterson] aside."

Peterson called 911 to report the captain's conduct. At about the same time, two police officers, M.L. and J.M., walked past Peterson. One officer said, "disorderly conduct," so Peterson left the station and walked to his car. Officer M.L. approached

Peterson and told him not to return that day. Because the 911 dispatcher had told Peterson to talk to the police officers, Peterson left his car and approached M.L. and J.M. "to tell them that he had been assaulted" by the captain. Peterson had his fingertips in his pockets because "[i]t was very cold out." Officer J.M. told Peterson to take his hands out of his pockets, and when he did not, J.M. handcuffed Peterson. Peterson was detained in jail for about nine hours and charged with disorderly conduct. Peterson alleges that police arrested him without probable cause in retaliation for exercising his constitutional right to protest his parking ticket.

Ellis's advice in criminal case

Peterson retained respondents Deborah Ellis and Ellis Law Office (collectively, Ellis) to represent him in the disorderly-conduct case. Ellis negotiated with the prosecutor, who agreed that if Peterson pleaded guilty to disorderly conduct, the state would support a stay of adjudication. Ellis told Peterson about the negotiation, and Peterson asked Ellis whether the plea agreement would "prevent or affect his ability to pursue a civil claim against the officers." Peterson asserts that Ellis told him that "a stay of adjudication [is] not a guilty plea and that his testimony would not affect his ability to pursue a civil claim against the officers."

According to Peterson's complaint, at a July 21, 2014 hearing, he entered a guilty plea and testified that his conduct at the police station was disorderly. He agreed with counsel that he spoke to the captain in an "elevated voice" and was "noisy and it was boisterous and it aroused some resentment in those people who heard the discussion between [Peterson] and the captain that day." The district court did not accept Peterson's

plea. Instead, with the state's agreement, the district court stayed adjudication and placed Peterson on probation, ordering him to pay $50 in court costs and remain law-abiding for six months. Peterson successfully completed probation, and the disorderly-conduct charge was dismissed.

Civil-rights claim

Peterson retained another attorney to pursue a civil-rights suit against the officers. His complaint alleged that the captain and officers M.L. and J.M. unlawfully seized Peterson in violation of his First and Fourth Amendment rights and were liable for damages under 42 U.S.C. § 1983 (2018). The officers removed the case to federal court and moved for summary judgment, claiming that Peterson was collaterally estopped by his criminal case. Peterson voluntarily stipulated to the dismissal of his civil-rights complaint with prejudice, and the federal court dismissed his suit. Peterson argues that "[t]he defendant officers were correct in asserting that collateral estoppel prevented [him] from pursuing the civil claim because his admission that he committed disorderly conduct proved that there was probable cause to arrest him for disorderly conduct."

Malpractice complaint

Peterson then served Ellis with a legal-malpractice complaint, which is the subject of this appeal. The sole count of the complaint alleges that Ellis intentionally or negligently advised him that his plea-hearing testimony admitting he was disorderly at the police station would not prevent him from pursuing his civil-rights claim. Peterson also argues that he followed Ellis's advice and, "[a]s a direct result . . . [he] was precluded from

proceeding with and recovering on the civil claims against the officers." Peterson alleges damages in excess of $50,000.

Ellis moved to dismiss the complaint under Minn. R. Civ. P. 12.02(e) for failure to state a claim. Ellis argued that Peterson's criminal disposition was not a final judgment on the merits; therefore, collateral estoppel did not bar his civil case against the police. Ellis also argued that Peterson's voluntary dismissal of his federal lawsuit caused his damages, rather than Ellis's advice.[1] Peterson contended that, when viewed favorably to him, his complaint stated a claim for legal malpractice.

In a written decision, the district court determined that Peterson's criminal case did not collaterally estop his civil-rights case. The district court determined that "[t]he judge overseeing that [plea] hearing did not expressly determine that [Peterson's] statements were sufficient to sustain a conviction on any charge. [Peterson] was not found guilty." The district court also pointed out that "[w]ithout any adjudication of guilt or innocence, there is no 'prior adjudication' upon which to satisfy the first factor required for the application of collateral estoppel." Because collateral estoppel does not preclude relitigation of issues that were not "unequivocally" decided in a prior litigation, the district court concluded that Peterson's legal argument failed. The district court also found that

[1] In the alternative, Ellis contended that under *Noske v. Friedberg*, 670 N.W.2d 740 (Minn. 2003), Peterson could not bring his malpractice claim without first having his criminal judgment overturned. Ellis also argued that Peterson's allegation sounded in fraud, and therefore failed to state a claim because the alleged misrepresentation did not relate to a present or past fact. The district court's written decision did not discuss either alternative ground. On appeal, Ellis raises her argument under *Noske* as an alternative basis for affirmance. Because we affirm on collateral estoppel, we do not consider Ellis's alternative argument.

"on the facts alleged . . . the proximate cause of the failure of [Peterson's] civil-rights claim is not any advice provided by Ellis, but is [Peterson's] intervening decision to voluntarily dismiss his civil lawsuit with prejudice." The district court, therefore, dismissed Peterson's complaint against Ellis.

This appeal follows.

D E C I S I O N

When a case is dismissed for failure to state a claim under Minn. R. Civ. P. 12.02(e), we review de novo whether the complaint sets forth a legally sufficient claim for relief. *De Rosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). "We accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). "Minnesota is a notice-pleading state and does not require absolute specificity in pleading, but rather requires only information sufficient to fairly notify the opposing party of the claim against it." *Id.* at 604-05 (quotation omitted). We are not bound, however, by legal conclusions in a complaint when determining whether the complaint survives a motion to dismiss for failure to state a claim. *Hebert v. City of Fifty Lakes*, 744 N.W2d 226, 235 (Minn. 2008). Additionally, "[w]hether collateral estoppel is available is a mixed question of law and fact subject to de novo review." *Falgren v. State Bd. of Teaching*, 545 N.W.2d 901, 905 (Minn. 1996).

The district court, at Ellis's request, took judicial notice of court records from the underlying disorderly conduct and civil-rights cases that Peterson's complaint refers to and relies on. Peterson did not object to Ellis's request to take judicial notice and does not argue

on appeal that the district court committed any error in doing so.[2] The district court took notice of Peterson's plea-hearing transcript and register of actions from the disorderly-conduct case, and stipulation and order for dismissal from the civil-rights case, all of which fit squarely within rule 201.

We conclude that the district court did not convert Ellis's rule 12 motion into a rule 56 motion by taking judicial notice of these materials. A district "court may consider documents referenced in a complaint without converting the motion to dismiss to one for summary judgment." *N. States Power Co. v. Minn. Metro. Council*, 684 N.W.2d 485, 490 (Minn. 2004) (emphasis omitted); *see also* Minn. R. Civ. P. 12.02 ("If, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such motion by Rule 56."). Because the district court took judicial notice of documents that Peterson's claim refers to, we review his appeal as taken from a judgment entered under rule 12.

Peterson argues that the district court erred in dismissing his complaint because collateral estoppel precluded his civil-rights case against the police officers, and Ellis's

[2] Judicial notice is authorized by Minn. R. Evid. 201, which allows a court to take notice of facts not subject to reasonable dispute. The facts must be "either (1) generally known within the territorial jurisdiction of the court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Minn. R. Evid. 201(b).

advice was "the proximate cause of the dismissal" of his civil-rights case. Ellis urges us to affirm, arguing that collateral estoppel did not apply to Peterson's dismissed criminal charge.

"Collateral estoppel bars the relitigation of issues that are both *identical* to those issues already litigated by the parties in a prior action and *necessary and essential* to the resulting judgment." *State Farm Mut. Auto. Ins. Co. v. Lennartson*, 872 N.W.2d 524, 534 (Minn. 2015) (quotation omitted). In Minnesota, collateral estoppel is appropriate when four elements are satisfied:

> (1) the issue was identical to one in a prior adjudication;
> (2) there was a final judgment on the merits;
> (3) the estopped party was a party or in privity with a party to the prior adjudication; and
> (4) the estopped party was given a full and fair opportunity to be heard on the adjudicated issue.

Ill. Farmers Ins. Co. v. Reed, 662 N.W.2d 529, 531 (Minn. 2003). The district court determined that Peterson's criminal case did not collaterally estop his civil-right claims because one element was missing: there was no final judgment on the merits.

We begin by observing that Peterson is correct that collateral estoppel *may* preclude a section 1983 claim. *See, e.g.*, *Allen v. McCurry*, 449 U.S. 90, 104, 101 S. Ct. 411, 420 (1980) (holding collateral estoppel precluded a section 1983 claim against arresting officers because plaintiff received a criminal conviction in state court after a "full and fair opportunity" to litigate the search and seizure underlying his civil-rights claim). But to do so, collateral estoppel requires a final adjudication on the merits. *Reed*, 662 N.W.2d at 531.

Peterson's criminal case did not result in a final adjudication on the merits of his disorderly-conduct charge. When a defendant enters a guilty plea and the district court stays adjudication, the district court "does not adjudicate the defendant guilty but imposes conditions of probation. On the successful completion of probation, the defendant avoids a criminal conviction." *State v. C.P.H.*, 707 N.W.2d 699, 702-03 (Minn. App. 2006) (citations omitted). "When adjudication is stayed . . . a guilty plea is not recorded because there is, by definition, no adjudication of guilt." *Dupey v. State*, 868 N.W.2d 36, 40 n.2 (Minn. 2015) (discussing a statutory stay of adjudication for first-time drug offenders).

In contrast, a criminal judgment of conviction "must contain the plea, verdict, adjudication of guilt, and sentence." Minn. R. Crim. P. 27.03, subd. 8; *see also* Minn. R. Crim. P. 28.02, subd. 2(1) ("A final judgment within the meaning of these rules occurs when the district court enters a judgment of conviction and imposes or stays a sentence."). The Minnesota statutes define a "conviction" as the acceptance and recording by the district court of a plea of guilty. Minn. Stat. § 609.02, subd. 5(1) (2018). "[A] court 'records' a guilty plea upon accepting the guilty plea and adjudicating the defendant guilty on the record." *State v. Martinez-Mendoza*, 804 N.W.2d 1, 6 (Minn. 2011).

During Peterson's disorderly-conduct proceeding, Peterson entered a guilty plea and the district court stayed adjudication and placed Peterson on probation. The district court did not accept Peterson's guilty plea, did not find Peterson guilty, and did not sentence Peterson. Instead, following the agreement between Peterson and the state, the district court imposed conditions of probation. When Peterson successfully completed those conditions, the state's charge against Peterson was dismissed, and he was not adjudicated guilty. The

"merits" of the dismissal, thus, were that Peterson complied with probation conditions, not that he was guilty or convicted of disorderly conduct. Because there was no final adjudication on the merits of Peterson's guilt in the disorderly-conduct case, collateral estoppel does not apply.

Peterson makes four arguments to the contrary on appeal. We address each in turn.

District court's analysis

First, Peterson contends that the district court erred by relying on the fact that his plea-hearing testimony and guilty plea were not made under oath. The district court found that Peterson "admitted to certain facts on the record. However, [Peterson] was never sworn in and did not provide testimony under oath."

Peterson correctly notes that an oath is not expressly required for a valid guilty plea in misdemeanor or gross misdemeanor cases. *See* Minn. R. Crim. P. 15.02, subd. 1 (stating requirements for a gross misdemeanor or misdemeanor guilty plea without expressly requiring defendant to be sworn). Peterson urges that this is fatal to the district court's subsequent collateral-estoppel decision because his unsworn statements can sustain a conviction, and would have been used to convict him had he failed his conditions of probation.

But even if we assume that Peterson's plea testimony could have been used to convict him had he failed probation, Peterson's argument misses the mark. The district court never accepted Peterson's guilty plea and his guilt was never adjudicated, so there is no final judgment on the merits of his guilt for disorderly conduct.

Peterson insists that the stay of adjudication in his criminal case was a final judgment on the merits, without citing legal precedent to support this claim.[3] "An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection." *State v. Anderson*, 871 N.W.2d 910, 915 (Minn. 2015) (quoting *State v. Yang*, 774 N.W.2d 539, 552 (Minn. 2009)). Based on the lack of legal precedent, we do not further consider Peterson's argument on this point.

Admissibility of guilty plea and testimony

Second, Peterson urges that his guilty plea and "'testimony,' not any 'conviction,'" caused "issue preclusion" on the issue of probable cause for his arrest in the subsequent

[3] Peterson cites an unpublished opinion to support his claim that it is "incorrect" to "assert that a stay of adjudication does not meet the elements of a final judgment." Unpublished opinions are not precedential, but may be persuasive. Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating that unpublished or "nonprecedential" opinions "are not binding authority except as law of the case, res judicata or collateral estoppel, but . . . may be cited as persuasive authority"); *see also Gen. Cas. Co. of Wis. v. Wozniak Travel, Inc*., 762 N.W.2d 572, 575 n.2 (Minn. 2009) ("[An] unpublished Minnesota court of appeals decision does not constitute precedent."). Peterson's brief quotes a portion of the unpublished opinion that relies on a definition of final judgment from *Black's Law Dictionary* and quotes the *Restatement (Second) of Judgments*, § 13, cmt. b (1982).

Peterson's analysis is not persuasive for three reasons. First, the authorities mentioned explain the final judgment rule that this opinion has already recognized. Second, Peterson fails to discuss that the unpublished decision relied on Minnesota precedent holding that "[i]n a criminal proceeding, a court may enter either a judgment of conviction . . . , or a judgment of acquittal." *Kirchner v. Jernell*, No. A12-1328, 2013 WL 1943013, *2 (Minn. App. May 13, 2013) (citing Minn. Stat. § 631.40 (2006) and Minn. R. Crim P. 27.03, subd. 8), *review denied* (Minn. Aug. 6, 2013). Third, Peterson omits that the unpublished decision did not consider a stay of adjudication. Instead, it determined that a district court's probable-cause determination was "neither a judgment of conviction nor a judgment of acquittal . . . Therefore, [it] was not a final judgment and does not support the application of collateral estoppel." *Id.* Thus, *Kirchner* does not support Peterson's claim that a stay of adjudication is a final judgment.

civil-rights case. Peterson contends that his plea-hearing testimony would "be admissible and would certainly be successfully used against him in a subsequent civil proceeding," because his plea-hearing testimony is admissible as a statement by a party-opponent. *See* Minn. R. Evid. 801(d)(2) (party-opponent); *see also* Minn. R. Evid. 804(b)(3) (statement against interests).

There is legal authority in Minnesota going both ways on the admissibility of Peterson's guilty plea and hearing testimony. *Compare Kvanli v. Village of Watson*, 139 N.W.2d 275, 279 (Minn. 1965) (determining that district court properly received a judgment roll from criminal proceedings in a civil case because a "prior plea of guilty may be admissible against a party to an action as an admission against interest"); *with Doe 136 v. Liebsch*, 872 N.W.2d 875, 882 (Minn. 2015) ("But we have never stated that a district court *must* admit a guilty plea as evidence in a subsequent civil matter.").[4] While the parties do not cite them, the Minnesota Rules of Criminal Procedure appear to foreclose using an

[4] Peterson relies on an unpublished opinion to assert that he "could not create a factual dispute in [the civil-rights case] because he could not contradict his earlier guilty plea testimony." We have already noted that unpublished opinions are not precedent but may be persuasive. *See* discussion *supra* note 3. Peterson's unpublished opinion is unpersuasive because it is not applying collateral estoppel. Rather, the opinion affirms summary judgment for an insurer in a declaratory-judgment action, in part, by determining that an insured cannot create a genuine issue of material fact by contradicting his plea testimony from a prior criminal proceeding. *State Farm Fire and Cas. Co. v. Kistner*, No. A08-2096, 2009 WL 2852618, *3 (Minn. App. Sept. 8, 2009), *review denied* (Minn. Nov. 17, 2009). We also note "[t]he danger of miscitation is great because unpublished decisions rarely contain a full recitation of the facts." *Vlahos v. R & I Constr., Inc.*, 676 N.W.2d 672, 676 n.3 (Minn. 2004). Based on the brief recitation of facts provided, *Kistner* appears to consider sworn testimony in support of an accepted guilty plea to a third-degree assault conviction, rather than unsworn guilty-plea testimony and a stay of adjudication that led to dismissal, as is the case here.

unaccepted guilty plea as evidence. *See* Minn. R. Crim. P. 15.06 ("If the defendant enters a plea of guilty that is not accepted or is withdrawn, any plea discussions, plea agreements, and the plea are not admissible as evidence against or in favor of the defendant in any criminal, civil, or administrative proceeding.").

But even if we assume Peterson's hearing testimony from his criminal case is admissible evidence in his federal civil-rights case based on the same circumstances, we do not conclude that Peterson is collaterally estopped from challenging probable cause for his arrest. Peterson's argument conflates adverse evidence with collateral estoppel. While his plea-hearing testimony may be adverse evidence that would make it harder for Peterson to succeed in his civil-rights claim, evidence is not the same as a final judgment on the merits and thus does not collaterally estop his civil-rights claim.

Ability to contravene plea-hearing testimony in subsequent litigation

Third, Peterson cites inapposite caselaw for the proposition that he could not contradict his guilty-plea testimony in a subsequent action. He relies on Minnesota caselaw that recognizes collateral estoppel based on accepted pleas and criminal convictions. None of the Minnesota cases he cites involve a dismissal of charges after the successful completion of a stay of adjudication. *See Travelers Ins. Co. v. Thompson*, 163 N.W.2d 289, 294 (Minn. 1968) (first-degree murder conviction precluded any claim as a beneficiary of the victim's insurance policy); *Fain v. Andersen*, 816 N.W.2d 696,702-03 (Minn. App. 2012) (first-degree murder conviction precluded dispute over civil liability), *review denied* (Minn. May 21, 2013); *see also Reed*, 662 N.W.2d at 534 (refusing to expand *Thompson*

and holding insurer may not use insured's criminal conviction as collateral estoppel in civil suit by victim).

Peterson relies on caselaw from other jurisdictions that is not persuasive for the same reason. *See, e.g.*, *State Farm Fire & Cas. Co. v. Fullerton*, 118 F.3d 374, 381-82 (5th Cir. 1997) (collateral estoppel applied to murder conviction); *Ideal Mut. Ins. Co. v. Winker*, 319 N.W.2d 289, 296 (Iowa 1982) (same); *Martin v. Phillips*, 422 P.3d 143, 146 (Okla. 2018) (collateral estoppel applied to *Alford* plea leading to conviction). In each of Peterson's cases, collateral estoppel followed the criminal proceedings because the defendant admitted to the facts underlying his guilty plea and the district courts *accepted* the guilty plea and *convicted* the defendant—facts which do not exist here.

Peterson tries to leverage this caselaw by arguing that "the federal district court would have applied collateral estoppel to the factual issue of determining whether [Peterson] committed disorderly conduct and the existence of probable cause to arrest [Peterson] for disorderly conduct." He claims that *Fullerton* shows the Minnesota federal district court would "have to apply collateral estoppel and any exercise of discretion to do otherwise would simply be incorrect."

We disagree. In *Fullerton*, the Fifth Circuit determined that a Texas state court would hold that "a valid guilty plea serves as a full and fair litigation of the facts necessary to establish the elements of the crime" of murder, so that the defendant was collaterally estopped in a later civil case from contesting that he acted intentionally. 118 F.3d at 378. It so held, however, for three reasons:

> First, Texas has not hesitated to give default civil judgments preclusive effect, in spite of the cursory nature of the adjudication leading to those judgments. Second, language in a 1949 Texas Supreme Court case suggests a willingness to give guilty pleas to murder charges heavy weight in later civil proceedings. And finally, Texas courts have indicated that Texas issue-preclusion rules are virtually identical to the issue-preclusion rules followed in federal courts, which routinely give guilty pleas preclusive effect.

Id. at 381-82.

The same three reasons do not follow in Peterson's case. First, Peterson's inability to cite a case with a procedural history similar to his own criminal case suggests that Minnesota has not recognized any preclusive effect to an unaccepted guilty plea. Second, Minnesota *might* agree with Texas and give "heavy weight" to a guilty plea that results in a murder conviction. *See generally Thompson*, 163 N.W.2d at 294 (murder conviction). But the same is likely not true for a guilty plea that results in dismissal of a disorderly-conduct charge. "The considerations which govern a plea of guilty as distinguished from a vigorously contested prosecution, where the charge is not as heinous as murder . . . , may be quite different." *Glens Falls Grp. Ins. Corp. v. Hoium*, 200 N.W.2d 189, 190-92 (Minn. 1972) (holding while a criminal defendant's "plea of guilty may be received in evidence as an admission, it is not conclusive evidence that he committed an intentional tort."). Third, Minnesota courts appear less inclined than federal courts to apply collateral estoppel in a situation like Peterson's criminal case. *See, e.g.*, *id.* at 192 (allowing defendant who pleaded guilty to aggravated assault to "show, if he can, the inducements which led him to enter his plea" in subsequent civil-liability action brought by insurer).

In sum, we conclude that the federal district court was not required to accord collateral estoppel to Peterson's criminal case.

Full and fair opportunity to be heard

Peterson's fourth argument about collateral estoppel contends that the distinction between his guilty plea and testimony and a criminal conviction "does not matter" because collateral estoppel requires that a party have a "full and fair opportunity to be heard," thus, he is bound by the plea hearing. While it is true that Peterson cannot "erase" the plea hearing, it is also true that collateral estoppel does not bar relitigation of an issue unless there is a final judgment on the merits. *Reed*, 662 N.W.2d at 531. Satisfaction of the fourth collateral-estoppel requirement that "the estopped party was given a full and fair opportunity to be heard on the adjudicated issue," does not satisfy the second requirement that "there was a final judgment on the merits." *See id.*

Proximate cause

Peterson's final argument in this appeal is that Ellis's advice, rather than his voluntary dismissal, was the proximate cause of the dismissal of his civil-rights claim. Because we determine that Peterson's civil-rights claim was not collaterally estopped by his guilty plea or testimony, we need not reach the issue of proximate cause.

In conclusion, Peterson's guilt was not adjudicated for collateral-estoppel purposes in the underlying disorderly-conduct case. While his plea-hearing testimony may have been adverse evidence in his civil-rights case, it did not have collateral-estoppel effect, because there was no final judgment on the merits of Peterson's guilt. Because Peterson's theory of legal malpractice in his complaint depends on a legally erroneous belief that his civil-rights

claim was collaterally estopped by his criminal case, the district court did not err in dismissing his complaint for failure to state a claim upon which relief may be granted.

Affirmed.