10-7-2022

Darien Houser v. Pennsylvania Department of Cor

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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No. 20-2430

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DARIEN HOUSER,
Appellant

v.

PENNSYLVANIA DEPARTMENT OF CORRECTIONS; MR. WETZEL, Secretary of State; LOUIS S. FOLINO, SCI Greene Superintendent; DEPUTY WINFIELD, Administrative Officer; MAJOR LEGGETT, Administrative Officer; LT. GREGO, Administrative Officer; LT. KENNEDY, Administrative Officer; LT. KELLY, Administrative Officer; SGT. MITCHELL, lower ranking Administrative Officer; SGT. GAGNON, lower ranking Administrative Officer; SGT. JOHN DOE, lower ranking Administrative Officer; CO1 MCCUNE, Property Correction Officer; CO1 CARTER, Property Officer; C/O MICHELUCCI, Correction Officer; C/O GILLIS, L-Block Correction Officer; HEARING EXAMINER NUNEZ; JANE AND JOHN DOE, Correction Staff Smokers; DR. JIN, Medical Director; JOHN MCANANY, Nurse Supervisor; NEDRA GREGO, Nurse Supervisor; MR. POKOL, Nurse; PA ANATANOVICH, Medical Staff; PA WEST, Medical Staff; MR. WILSON, Medical Staff; C/O JONES, Correction Staff; C/O KELLER, Correction Staff; JANE AND JOHN DOE, Medical Staff; WEXFORD MEDICAL INC, Jane and John Doe; BUREAU OF HEALTH CARE SERVICES; WINDY SHAYLOR, Graterford Grievance Coordinator; DORINA VARNER, Chief Grievance Coordinator; LT. TONY, Administrator Officer; PETER VIDONISH, Administrative Officer; C/O COLES, Correction Staff; C/O SEGY, Correction Staff; SGT. LUBAY, lower ranking Administrative Officer

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On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 2:13-cv-01068)
District Judge: Honorable Arthur J. Schwab

Submitted Pursuant to Third Circuit LAR 34.1(a)
October 7, 2022

Before: KRAUSE, BIBAS, and SCIRICA, Circuit Judges

(Opinion filed: October 7, 2022)

OPINION*

PER CURIAM

Darien Houser appeals pro se from an order of the United States District Court for the Western District of Pennsylvania granting the appellees' motions for summary judgment. For the reasons below, we will affirm.

Houser, a Pennsylvania prisoner, filed a civil rights complaint (ECF 6), which he later amended twice. (ECF 69; 72.) He named as defendants the Department of Corrections (DOC) and several of its employees, as well as the medical director at SCI-Greene and two medical assistants. Those defendants filed motions for summary judgment, arguing that Houser's claims were barred by the doctrine res judicata, also called claim preclusion, because they could have been raised in an earlier, unsuccessful suit that Houser had brought against the same or similar defendants. (ECF 162; 164 & 165.) The District Court granted those motions (ECF 182 & 183), and entered judgment

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

pursuant to Federal Rule of Civil Procedure 58. (ECF 184.) Houser timely appealed. (ECF 185.)

We have jurisdiction under 28 U.S.C. 1291, and exercise de novo review over the District Court's grant of summary judgment on the basis of claim preclusion. See Elkadrawy v. Vanguard Grp., Inc., 584 F.3d 169, 172 (3d Cir. 2009).

The doctrine of claim preclusion bars claims that were brought, or could have been brought, in a previous action. See In re Mullarkey, 536 F.3d 215, 225 (3d Cir. 2008); CoreStates Bank, N.A. v. Huls Am., Inc., 176 F.3d 187, 194 (3d Cir. 1999). "The preclusive effect of a federal-court judgment is determined by federal common law." Taylor v. Sturgell, 553 U.S. 880, 891 (2008). Claim preclusion under federal law applies where there is "(1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies and (3) a subsequent suit based on the same cause of action." Lubrizol Corp. v. Exxon Corp., 929 F.2d 960, 963 (3d Cir. 1991). The party asserting claim preclusion bears the burden of proving all the elements. See Taylor, 553 U.S. at 907.

We agree with the District Court that claim preclusion bars Houser's claims. The first element is satisfied because, in an action that Houser brought in 2010 ("*Houser I*"), the jury returned a verdict in favor of the defendants. See Houser v. Folino, W.D. Pa. Civ. No. 2:10-cv-00416 (judgment entered Dec. 4, 2015). The District Court denied Houser's motion for a new trial, see Houser v. Folino, No. 2:10-cv-00416, 2016 WL 791934 (W.D. Pa. Mar. 1, 2016), recons. denied, 2016 WL 1555518 (W.D. Pa. Apr. 18,

2016), and we affirmed, Houser v. Folino, 927 F.3d 693, 701 (3d Cir. 2019).

The second and third elements are also satisfied. In *Houser I*, the amended complaint, which was filed on July 31, 2012, named many of the same DOC employees and medical staff at SCI Greene who were named in the underlying action. The claims in that complaint concerned medical treatment that Houser received at SCI-Greene between January 2007 and October 2011.[1] While that case was pending, Houser filed the underlying action ("*Houser II*"), which named numerous defendants from *Houser I*, including the DOC itself, the DOC Bureau of Health Care Services, DOC officials and employees, corrections officers, and health care providers. Like the amended complaint in *Houser I*, *Houser II* involved alleged constitutional violations related to medical treatment at SCI-Greene. See Blunt v. Lower Merion Sch. Dist., 767 F.3d 247, 277 (3d Cir. 2014) (stating that courts should take a "broad view" when considering what constitutes the same cause of action); see also United States v. Athlone Indus., Inc., 746 F.2d 977, 983-84 (3d Cir. 1984) (noting that asserting different theories of recovery in a second lawsuit will not defeat the application of res judicata where the events underlying the two actions are essentially the same). And the conduct giving rise to the claims in

[1] We note that Houser later narrowed the scope of the case in *Houser I*. Specifically, the Magistrate Judge granted his motion to voluntarily dismiss all but four of the named defendants, see Houser v. Beard, W.D. Pa. No. 2:10-cv-00416 (ECF 144 & 184), and permitted him to amend the complaint to name only those four defendants. (Text-only order entered Dec. 21, 2012.) Later, at trial, the District Court permitted Houser to withdraw his claims against two of the four remaining defendants. (ECF 415, at 41-42.) Houser does not argue, and we cannot conclude, that the narrowing of the case under these circumstances precludes the application of the res judicata doctrine.

Houser II predated the filing of the amended complaint in *Houser I*. Cf. Morgan v. Covington Twp., 648 F.3d 172, 178 (3d Cir. 2011) (holding "that res judicata does not bar claims that are predicated on events that postdate the filing of the initial complaint"). It is clear, therefore, that the claims in *Houser II* could have been brought in the amended complaint that was filed in *Houser I*. Indeed, both actions involved claims against the same defendants or their privies that were related to allegedly improper medical care at SCI Greene between January 2007 and April 2012.

Accordingly, because we conclude that the District Court properly held that the claims in *Houser II* were precluded by res judicata, we will affirm the judgment of the District Court.