

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-516

AUGUST TERM, 2006

Charles Crannell

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APPEALED FROM:

}

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v.

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Rutland Superior Court

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James Mongeon

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DOCKET NO. 310-5-05 Rdcv

Trial Judge: Richard W. Norton

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals the dismissal of his civil suit seeking damages for items not returned to him following his arrest and conviction for murder. We affirm.

This is the latest case in which plaintiff seeks a remedy for the State=s alleged failure to return to him a 1985 Corvette, jumper cables, a cellular phone, and a hair sample allegedly seized following his arrest for murder. Plaintiff was convicted of murder in 1995 and sentenced to life imprisonment with no possibility of

parole. In November 1997, plaintiff filed a motion in district court for the return of seized property, including a 1985 Corvette, certain items that were inside the car, and a cell phone. In response to court orders requiring it to return the property, the State filed an affidavit indicating that the items either had not been seized or were no longer in the State's possession. The district court ruled that the State's affidavit was sufficient, and plaintiff appealed. This Court affirmed in part and reversed in part, rejecting plaintiff's claim regarding the Corvette, but remanding the matter for the superior court to make further findings regarding the cell phone and items seized from the car. See State v. Crannell, 171 Vt. 623, 625-26 (2000) (mem.). We also held that the district court did not have jurisdiction to require the State to pay compensatory damages for any lost or destroyed items, so that plaintiff would have to bring an action in superior court to recover monetary damages. Id. at 624.

On remand, following evidentiary hearings, the district court denied defendant's motion for return of property, concluding that (1) plaintiff failed to prove that the State had seized his cell phone; and (2) the State no longer had possession of the jumper cables or hair sample. Plaintiff appealed that decision, arguing that neither the evidence nor the court's findings supported its conclusion that the State does not possess plaintiff's jumper cables. That appeal is currently pending. Meanwhile, plaintiff filed the instant civil action in superior court, seeking damages for the loss or destruction of the Corvette, cell phone, jumper cables, and hair sample. The superior court granted defendant's motion to dismiss, concluding that (1) plaintiff had abandoned his damages claim with respect to the hair sample; and (2) this Court already determined in a previous decision that the State had acted properly in returning the Corvette to the title holder; and (3) the doctrine of issue preclusion barred plaintiff's claim for damages with respect to the cell phone and the jumper cables.

On appeal, plaintiff first argues that this Court erroneously determined in its earlier decision that the State acted properly when it returned the [Corvette] to its lawful owner, @ the leasing company that held title to the car. Crannell, 171 Vt. at 625. According to plaintiff, this Court did not decide in that case whether he had a constitutional due process right to notice and a hearing before being deprived of his property and whether the return of the car to the leasing company violated Florida law. Plaintiff submits that because he did not present the constitutional issue to this Court in the previous case, he has the right to have the issue addressed by this Court in this case. Plaintiff is mistaken. The doctrine of res judicata, also known as claim preclusion, bars

litigation of a claim resolved in a final judgment in a previous proceeding involving substantially identical parties and causes. Kellner v. Kellner, 2004 VT 1, & 8, 176 Vt. 571 (mem.). Res judicata bars parties from litigating not only claims that were raised in previous adjudicative proceedings, but also those that should have been raised.@ Id. Here, substantially identical parties previously litigated in the district court plaintiff's claim that the State wrongfully deprived him of his property by turning his Corvette over to the leasing company. Following an appeal in that proceeding, this Court expressly determined that the State acted properly in turning the car over to the title holder. Plaintiff cannot now challenge that holding by raising new reasons—lack of due process or failure to follow Florida law, for example—for why the holding was wrong. See id. & 11 (purpose of res judicata is to deliver finality and repose). Hence, plaintiff is estopped in this or any other future proceeding from contesting the legality of the State's actions in turning the car over to the leasing company.

Next, plaintiff argues that the superior court erred by not holding a hearing on what happened to the missing jumper cables and the box they were in. The superior court determined that plaintiff was not entitled to the replacement cost of the jumper cables because the district court conclusively determined that the prosecutor's office made the cables available to defendant through the Defender General's office. According to the court, because the cables were returned, plaintiff cannot show that he is entitled to their replacement cost. The court also stated that it need not determine whether the prosecutor's office was at fault regarding the handling of the jumper cables because plaintiff had failed to show that he suffered any harm entitling him to a damage recovery. Plaintiff protests that the jumper cables and the box containing them could have contained exculpatory evidence, but his speculation does not entitle him to monetary damages. All that is left is the value of a set of used jumper cables, which is de minimis in nature. Notwithstanding plaintiff's appeal of the district court's order with respect to the jumper cables, we see no reason to remand this matter for further proceedings when the district court has already determined that the prosecutor's office made the jumper cables available to defendant, and the cables have a de minimis value. See 18 J. Moore et al., Moore's Federal Practice & Procedure § 131.30[2][c][ii], at 131-97 (3d ed. 2006) (AA final judgment in federal court can be the basis for claim preclusion despite the fact that an appeal is pending, or that the judgment may be subject to appeal in the future.@); cf. United States v. Int'l Bhd. of Teamsters, 905 F.2d 610, 621 (2d Cir. 1990) (issues resolved in criminal case have preclusive effect in related civil action notwithstanding pending appeal of final judgment in

criminal matter).

Plaintiff also argues that the superior court failed to hold a hearing regarding what happened to the missing hair sample, but he has failed to demonstrate error or even contest the superior court's finding that he had abandoned his claim for damages with respect to the hair sample. Finally, plaintiff has failed to demonstrate that the court abused its discretion by denying his request for assigned counsel.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice