Guzman v. City of Houston

United States District Court for the Southern District of Texas, Houston Division

February 19, 2025, Decided; February 19, 2025, Filed, Entered

CIVIL ACTION NO. 4:24-CV-0419

Reporter
2025 U.S. Dist. LEXIS 46808 *

GUADALUPE GUZMAN, Plaintiff, v. CITY OF HOUSTON AND SAMUEL PENA IN HIS CAPACITY AS FIRE CHIEF OF THE HOUSTON FIRE DEPARTMENT, Defendants.

Counsel: [*1] Guadalupe Guzman, Plaintiff, Pro se, Kingwood, TX.

For City of Houston, Samuel Pena, in his capacity as Fire Chief of Houston Fire Department, Defendants: Deidra Ann Norris Sullivan, LEAD ATTORNEY, City of Houston Legal Department, Labor, Employment and Civil Service, Houston, TX; Lucy Nkechinyelumka Hilda Chukwurah, LEAD ATTORNEY, City of Houston, Legal Department, Houston, TX.

Judges: Christina A. Bryan, United States Magistrate Judge.

Opinion by: Christina A. Bryan

Opinion

MEMORANDUM AND RECOMMENDATION

Guadalupe Guzman, proceeding pro se, filed a Complaint against the City of Houston (City) and Samuel Peña in his capacity as Fire Chief (Peña) on February 5, 2024 complaining about their failure to promote him to Captain. ECF 1. This matter is before the court on Defendants' Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6).[1] Dkt. 5. The court recommends that Defendants' Rule 12(b)(6) motion be granted, and this case be dismissed with prejudice.

[1] On April 4, 2024, the District Judge referred the case to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), the Cost and Delay Reduction Plan under the Civil Justice Reform Act, and Federal Rule of Civil Procedure 72. ECF 20.

I. Background

On February 6, 2025, United States District Judge Lee H. Rosenthal issued an Order approving in part and rejecting in part a Consent Decree in the Title VII disparate-impact suit brought by several Black firefighters against the City alleging that the promotional exams for captain and senior caption [*2] positions in the Houston Fire Department (HFD) were racially discriminatory in violation of the Fourteenth Amendment. *Bazile v. City of Houston*, 858 F. Supp. 2d 718, 721 (S.D. Tex. 2012). On March 28, 2013, Judge Rosenthal issued a Final Judgment bringing the case to a close. *Bazile v. City of Houston*, No. CIV.A. H-08-2404, 2013 WL 1309097, at *1 (S.D. Tex. Mar. 28, 2013).

On August 3, 2022, Guzman, through counsel, sued the City and Peña alleging discriminatory policies and practices in the implementation of the fire department's promotional system. *Guzman v. City of Houston et al.*, Civil Action No. 4:22-cv- 2580 (*Guzman I*). The Complaint in *Guzman I* states "[a]t issue in this case are irregularities in the application and execution of [the HFD] promotional system, in the wake of the *Bazile* case . . .." *Guzman I* ECF 1 ¶ 20. Guzman's Complaint went on to provide more details about the *Bazile* case and alleges "[b]ased on the judicial declarations of this Court in *Bazile*, Plaintiff, as a HFD firefighter below the rank of Captain, reasonably expected that future promotional processes would be free of arbitrary and capricious actions by HFD. *Id.* ¶ 23. The *Guzman I* Complaint also alleges that the post-*Bazile* promotional process for the rank of Captain within HFD "continues to unfairly impact minority firefighters," like Guzman, and asserts causes of action for discrimination [*3] pursuant to Title VII and 42 U.S.C. §§ 1981 and 1983 based on Defendants' failure to promote him in 2018-2020. *Id.* ¶¶ 25, 43-45. The *Guzman I* Complaint expressly requests the Court "exercise its inherent authority to consider the extent of compliance with the *Bazile* decision." *Id.* ¶ 48. On January 5, 2024, United States District Judge David

Hittner granted Defendant's Motion for Summary Judgment and dismissed Guzman's claims with prejudice because, among other reasons, Defendants had a legitimate, non-discriminatory reason for not promoting Guzman and the *Bazile* case did not give him a "right" to a promotion. *Guzman I* (ECF 47).

A little more than two years after the Final Judgment in *Guzman I*, Guzman initiated this lawsuit, pro se, against the City and Peña by filing an Original Complaint that is largely duplicative of the Complaint in *Guzman I. See* ECF 1. The Original Complaint here does not cite Title VII or 42 U.S.C. §§ 1981 and 1983. However, the Original Complaint asserts as its "Primary Claim for Relief" a challenge, as in *Guzman I*, to the HFD's post-*Bazile* promotional process that "continues to unfairly impact minority firefighters," and again expressly requests the Court "exercise its inherent authority to consider [*4] the extent of compliance with the *Bazile* decision." ECF 1 ¶¶ 53, 57. The Court denied Guzman's motion to have this case reassigned to Judge Rosenthal. ECF 14.

Defendants' move to dismiss Guzman's claims in this case because they are barred by the res judicata effect of *Guzman I*. Defendants also contend that claims against Peña must be dismissed because they are redundant of the claims against the City.[2]

II. Rule 12(b)(6) Standards

To survive a Rule 12(b)(6) motion to dismiss, the plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the conduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009). In reviewing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), this Court accepts all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff. *Alexander v. AmeriPro Funding, Inc.*, 848 F.3d 698, 701 (5th Cir. 2017) (citing *Martin K. Eby Constr. Co. v. Dallas Area Rapid Transit*, 369 F.3d 464, 467 (5th Cir. 2004)). However, the court does not apply the same presumption to conclusory statements or legal conclusions. *Iqbal*, 556 U.S. at 678-79. Generally, the court may consider only the allegations in the complaint and any attachments thereto in ruling on a Rule 12(b)(6) motion. If a motion to dismiss refers to matters outside the pleading it [*5] is more properly considered as a motion for summary judgment. *See* FED. R. CIV. P. 12(d). However, the court may take judicial notice of public documents and may also consider documents a defendant attaches to its motion to dismiss under 12(b)(6) if the documents are referenced in the plaintiff's complaint and central to the plaintiffs' claims. *See Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 499 (5th Cir. 2000); *King v. Life Sch.*, 809 F. Supp. 2d 572, 579 n.1 (N.D. Tex. 2011); *Norris v. Hearst Trust*, 500 F.3d 454, 461 n.9 (5th Cir.2007). Here, the Court takes judicial notice of the filings on the record in *Guzman I* and *Bazile*.

III. Analysis

A. Res Judicata Standards

"Claim preclusion, or res judicata, bars the litigation of claims that either have been litigated or should have been raised in an earlier suit." *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 559, 571 (5th Cir. 2005). "Dismissal under Rule 12(b)(6) on res judicata grounds is appropriate when the elements of res judicata are apparent on the face of the pleadings." *Stone v. Louisiana Dep't of Revenue*, 590 F. App'x 332, 335-36 (5th Cir. 2014) (citations omitted).

The res judicata bar applies if: (1) the parties are identical or in privity; (2) the judgment in the prior action was rendered by a court of competent jurisdiction; (3) the prior action was concluded by a final judgment on the merits; and (4) the same claim or cause of action was involved in both actions. *Test Masters*, 428 F.3d at 571. The Fifth Circuit employs a "transactional test" to determine whether a subsequent action involves the same claim or cause of action [*6] as a prior action. Under this test, "[a] prior judgment's preclusive effect extends to all rights of the plaintiff with respect to all or any part of the transaction, or series of connected transactions, out of which the original action arose." *Test Masters*, 428 F.3d at 571.

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[2] Guzman has abandoned his claims against Peña by not addressing Defendants' arguments regarding Peña in his Response (ECF 7). *See Matter of Dallas Roadster, Ltd.*, 846 F.3d 112, 126 (5th Cir. 2017) (finding litigant abandoned claim by not addressing it in motion response). However, it is immaterial whether the claim is abandoned, because it is barred by res judicata for the reasons discussed herein.

B. Plaintiffs' Claims are Barred by Res Judicata

All four elements of res judicata are present here. This case is precluded by the prior final order in *Guzman I*, Civil Action 22-2580.

1. Parties are identical or in privity.

The parties here—Plaintiff, Guzman, and Defendants, the City and Peña—are the same parties as in *Guzman I*.

2. Prior rulings were made by courts of competent jurisdiction.

The United States District Court for the Southern District of Texas, Houston Division, is a court of competent jurisdiction with jurisdiction to issue the final ruling in *Guzman I*.

3. Prior rulings were final orders on the merits.

The Order entered in *Guzman I* on January 5, 2024 is a final ruling on the merits of all claims asserted in *Guzman I. See Guzman I* ECF 57 at n.7 (stating that while it is likely true that Guzman had abandoned claims by failing to brief them, the court nonetheless "reaches the merits of the Defendants' Summary Judgment Arguments"); 14 [*7] (stating "THIS IS A FINAL JUDGMENT").

4. This case involves the same claim or cause of action as *Guzman I*.

In the Fifth Circuit, courts applying the transactional test weigh various factors such as "whether the facts are related in time, space, origin, or motivation [;] whether they form a convenient trial unit[;] and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." *Oreck Direct, LLC v. Dyson, Inc.*, 560 F.3d 398, 402 (5th Cir. 2009). However, the critical test is whether the two actions are based on the "same nucleus of operative facts." *Davis v. Dallas Area Rapid Transit*, 383 F.3d 309, 313 (5th Cir. 2004).

This case arises out of the same nucleus of operative facts as *Guzman I*. In this case, as in *Guzman I*, Guzman seeks a remedy for Defendants' failure to promote him to captain during the 2018-2020 promotion cycle. In this case, as in *Guzman I*, Guzman alleges that he was not promoted because HFD's promotion system violates Judge Rosenthal's Orders in *Bazile*. The only difference between *Guzman I* and this case is that Guzman here has omitted any reference to Title VII and 42 U.S.C. §§ 1981 and 1983 and instead describes his claim as follows:

> Plaintiff [c]laims the City did not follow The Interlocutory Order [in *Bazile*], and claims the City mislead and misused that Order to help absolve [*8] the City of erroneous Captain Promotional practices. Causes of Action are similar but not the same, previous claims were Title 7 claims of discriminations [sic], Plaintiff now claims the City did not execute a signed Interlocutory Order properly and as directed.

ECF 7 at 8. Guzman's implication in the sentence quoted above that he did not claim in *Guzman I* that the City did not properly implement the Order in *Bazile* is belied by his pleadings and Judge Hittner's Final Judgment in *Guzman I*. Further, to the extent the claims here vary in any way from those in *Guzman I*, they are still barred by res judicata because that doctrine bars litigation of claims that were or *should have been* raised in prior litigation. *Test Masters Educ. Servs., Inc.*, 428 F.3d at 571. Under the transactional test, it does not matter that the plaintiff asserts different causes of action or theories of recovery in the subsequent case, but only whether they arise out of the same nucleus of operative facts. As the Fifth Circuit put it in *Test Masters*, "[i]f a party can only win the suit by convincing the court that the prior judgment was in error, the second suit is barred." *Id.* That is the situation here.

IV. Conclusion and Recommendation

For the reasons discussed above, the [*9] court recommends that Defendants' Rule 12(b)(6) motion to dismiss be **GRANTED** and this case be **DISMISSED** with prejudice.

The Clerk of the Court shall send copies of the memorandum and recommendation to the respective parties, who will then have fourteen days to file written objections, pursuant to 28 U.S.C. § 636(b)(1)(C). Failure to file written objections within the time period provided will bar an aggrieved party from attacking the factual findings and legal conclusions on appeal. *Douglass v. UnitedServs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other

grounds.

Signed on February 19, 2025, at Houston, Texas.

/s/ Christina A. Bryan

Christina A. Bryan

United States Magistrate Judge
