

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Gustus v. Fischer

64 A.D.3d 1034 (N.Y. App. Div. 2009) · Decided July 16, 2009

SUMMARY

The New York Appellate Division, Third Department held that a second prison disciplinary proceeding was barred by res judicata because both misbehavior reports arose from the same altercation and the necessary information was available before the first hearing. The court reversed, annulled the determination on the second report, and directed expungement of references to it from the petitioner’s institutional record.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Per Curiam; Peters, J.E.; Rose, J.; Kane, J.; Stein, J.; Garry, J.
JURISDICTION	New York
DECIDED	July 16, 2009
DISPOSITION	reversed
PROCEDURAL POSTURE	Petitioner appealed from dismissal of a CPLR article 78 proceeding challenging a prison disciplinary determination.
PRECEDENTIAL VALUE	published
PARTIES	Gustus v. Fischer

TOPICS

- res judicata
- agency adjudication
- judicial review of agency action
- administrative law
- civil procedure

PRACTICE AREAS

- administrative law
- civil procedure
- prison disciplinary proceedings

QUESTIONS PRESENTED

- Whether a second prison disciplinary proceeding based on the same altercation was barred by res judicata when the information supporting the second charges was available before the first disciplinary

hearing commenced.

2. Whether the second disciplinary determination should be annulled and references to it expunged from petitioner's institutional record.

HOLDINGS

1. Under New York's transactional analysis approach, res judicata barred the second disciplinary hearing because both misbehavior reports concerned the same April 17, 2007 incident and all information necessary to support the second charges was available before the first hearing began.
2. The second disciplinary determination was annulled, and respondent was directed to expunge all references to it from petitioner's institutional record.

KEY QUOTATIONS

“Under the transactional analysis approach to this doctrine, “ ‘once a claim is brought to a final conclusion, all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy’ ”” (64 A.D.3d at 1035)

“Because the two misbehavior reports charged violations concerning one incident and all of the information necessary to support the charges was available before commencement of the first hearing, the hearing on the second misbehavior report was barred by the doctrine of res judicata” (64 A.D.3d at 1035)

FACTUAL BACKGROUND

On April 17, 2007, petitioner was involved in a physical altercation with another inmate and then left a location where a correction officer had directed him to remain. A first misbehavior report charged fighting and refusing a direct order, while a second report, based on an investigation of the same incident, charged assaulting an inmate and engaging in violent conduct. The second hearing began approximately one hour after the first hearing ended, and the information supporting the second report was available before the first hearing began.

PROCEDURAL HISTORY

Petitioner was found guilty in a tier III disciplinary hearing of refusing a direct order; the fighting charge from that report was later dismissed on administrative appeal. In a separate proceeding concerning a second misbehavior report arising from the same altercation, petitioner was found guilty of assaulting an inmate and engaging in violent conduct. Supreme Court dismissed petitioner's CPLR article 78 challenge asserting that the second determination was barred by res judicata. The Appellate Division reversed, granted the petition, annulled the second determination, and directed expungement of references to it from petitioner's institutional record.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered; the petition was granted, the second determination was annulled, and respondent was directed to expunge all references to it from petitioner's institutional record.

CASES CITED

- Matter of Burgess v. Goord, 285 A.D.2d 753 (2001)
- Matter of Josey v. Goord, 9 N.Y.3d 386 (2007)
- O'Brien v. City of Syracuse, 54 N.Y.2d 353 (1981)
- Matter of Thomas v. Selsky, 23 A.D.3d 868 (2005)
- Matter of Griffith v. Selsky, 32 A.D.3d 595 (2006)

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