

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Tiberiu Klein v. Daniel E. O'Brien, et al.

884 F.3d 754 (7th Cir. 2018) · No. No. 17-2802 · Decided March 9, 2018

SUMMARY

The Seventh Circuit affirmed the dismissal on the merits of Tiberiu Klein’s federal civil-rights action arising from disputes over a wrongful-death settlement, estate administration, and related state-court litigation. The court held that Klein forfeited his substantive appellate arguments by focusing on the Rooker-Feldman doctrine, which was not the basis of the district court’s decision, and it permitted attorney John Xydakis to withdraw as a litigant while warning against further frivolous or repetitive litigation.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Frank H. Easterbrook; Chief Judge Wood; Judge Easterbrook; Judge Barrett
JURISDICTION	Federal
DECIDED	March 9, 2018
DOCKET	No. 17-2802
DISPOSITION	affirmed
PROCEDURAL POSTURE	Klein appealed the district court's merits judgment in favor of the defendants in his 42 U.S.C. § 1983 action. His attorney, John Xydakis, also appealed as a purported plaintiff but moved after oral argument to dismiss himself as a litigant.
STANDARD OF REVIEW	The court reviewed the district court's judgment on appeal; the decision focused on appellate forfeiture arising from the appellant's failure to address the grounds for the judgment.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Tiberiu Klein v. Daniel E. O'Brien, et al.

TOPICS

- appellate procedure
- civil procedure
- section 1983
- standing
- sanctions

PRACTICE AREAS

civil procedure

appellate procedure

civil rights

probate

QUESTIONS PRESENTED

1. Whether Klein forfeited his appellate arguments by failing to address the merits of the district court's judgment.
2. Whether the district court's judgment resolved the action on the merits rather than dismissing it for lack of jurisdiction under the Rooker-Feldman doctrine.
3. Whether Xydakis could continue litigating as a party despite lacking standing and whether his motion to dismiss himself as a litigant should be granted.

HOLDINGS

1. Klein forfeited all of his federal contentions because his appellate brief did not engage the merits-based reasons on which he lost in the district court.
2. The district court entered judgment for the defendants on the merits rather than dismissing the action without prejudice for lack of jurisdiction.
3. Xydakis's motion to dismiss himself as a litigant was granted.

KEY QUOTATIONS

"All of Klein's federal contentions have been forfeited." (at 4)

"We tracked down the judgment and found that it corresponds to the opinion: it resolves the suit in defendants' favor on the merits rather than dismissing, without prejudice, for lack of jurisdiction." (at 5)

FACTUAL BACKGROUND

In 2002, a Greyhound bus struck and killed Claudia Zvunca in Colorado, and her seven-year-old daughter, Cristina, witnessed the accident. In 2016, Cristina, acting as administrator of Claudia's estate, settled claims against Greyhound and other potentially responsible parties for approximately \$5 million. Claudia's former husband and Cristina's stepfather, Tiberiu Klein, alleged that Cristina improperly allocated settlement proceeds to herself and sued under § 1983 after a series of state-court disputes over estate administration and the wrongful-death litigation.

PROCEDURAL HISTORY

Klein brought a federal § 1983 action alleging that Cristina Zvunca conspired with state judges, law firms, Greyhound, and others to deprive him of financial benefits arising from a wrongful-death settlement and related state-court litigation. The district court considered but did not dismiss the action under the Rooker-Feldman doctrine; instead, it entered judgment for the defendants on the merits. On appeal, Klein's brief focused on Rooker-Feldman rather than the merits, and Xydakis failed to address whether he had standing to litigate as a party.

DISPOSITION

affirmed

CASES CITED

- *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923)
- *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983)
- *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005)
- *Lance v. Dennis*, 546 U.S. 459 (2006)
- *Skinner v. Switzer*, 562 U.S. 521, 531–33 (2011)
- *Milchtein v. Chisholm*, 880 F.3d 895 (7th Cir. 2018)
- *Harris Trust & Savings Bank v. Ellis*, 810 F.2d 700, 705–06 (7th Cir. 1987)
- *Mains v. Citibank, N.A.*, 852 F.3d 669, 676–77 (7th Cir. 2017)

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