

OHIO COURT OF APPEALS, SEVENTH APPELLATE DISTRICT

Talib v. Perkins Restaurant

2026-Ohio-445 · No. 25 MA 0079 · Decided February 11, 2026

SUMMARY

The Seventh District Court of Appeals of Ohio affirmed the dismissal of Rakhshanda Talib’s claims against Perkins Restaurant and related defendants. The court held that res judicata barred claims arising from the same alleged discriminatory restaurant encounter previously litigated by Talib and Myron Grace, and rejected arguments concerning response deadlines, judicial bias, expansion of the law, and newly raised claims. The court also concluded that the alleged 28-day response-rule violation lacked merit.

CASE DETAILS

COURT	Ohio Court of Appeals, Seventh Appellate District
WRITING FOR THE COURT	Carol Ann Robb; Mark A. Hanni; Katelyn Dickey
JURISDICTION	Ohio Court of Appeals, Seventh Appellate District, Mahoning County
DECIDED	February 11, 2026
DOCKET	25 MA 0079
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rakhshanda Talib appealed from the Mahoning County Court of Common Pleas' judgment granting defendants' Civ.R. 12(B)(6) motion and dismissing her complaint. The Court of Appeals affirmed.
STANDARD OF REVIEW	Orders granting Civ.R. 12(B)(6) motions are reviewed de novo and without deference. The reviewing court accepts factual allegations in the complaint as true, draws reasonable inferences in the plaintiffs' favor, and may consider written documents attached to the complaint.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Rakhshanda Talib v. Perkins Restaurant, JDK Management Co., Phoenix Management Services

TOPICS

- motions to dismiss
- res judicata
- civil procedure
- appellate procedure
- consumer protection

PRACTICE AREAS

civil procedure

appellate procedure

consumer protection

civil rights

QUESTIONS PRESENTED

1. Whether the trial court properly dismissed the complaint under Civ.R. 12(B)(6) because the claims were barred by res judicata.
2. Whether the Court of Appeals could review Talib's allegation that the common pleas judge was racist or should have been disqualified.
3. Whether defendants violated Ohio's 28-day response rule by filing their motion to dismiss 28 days after the complaint was filed.
4. Whether the Court of Appeals had an obligation to expand the law to protect Talib from alleged racial discrimination.
5. Whether Talib could raise new statutory claims and legal theories for the first time on appeal.

HOLDINGS

1. The complaint was barred by res judicata because the prior action involved a valid judgment on the merits, the same parties or their privies, claims that were or could have been litigated previously, and the same transaction or occurrence. The trial court therefore properly dismissed the complaint.
2. The Court of Appeals lacked authority to consider whether the common pleas judge was racist or should be disqualified. Authority to determine disqualification of a common pleas judge lies solely with the Chief Justice of the Supreme Court of Ohio, through the statutory affidavit-of-disqualification procedure.
3. Defendants did not violate the 28-day response rule because they filed their motion to dismiss 28 days after the complaint was filed.
4. The appellate court would not consider statutes, claims, or legal theories that Talib had not raised in the trial court proceedings. Such arguments were forfeited and were disregarded; in any event, claims based on the same prior transaction were also barred by res judicata.

KEY QUOTATIONS

“To dismiss a complaint for the failure to state a claim upon which relief can be granted, it must appear beyond a doubt the plaintiffs can prove no facts that would entitle them to the requested relief.” (¶ 12)

“Claim preclusion prevents subsequent actions, by the same parties or their privies, based upon any claim arising out of a transaction that was the subject matter of a previous action.” (¶ 21)

“The four elements of res judicata or claim preclusion are (1) a prior valid judgment on the merits; (2) a second action involving the same parties; (3) the second action raises claims that were or could have been litigated in the first action; and (4) both actions arise out of the same transaction or occurrence.” (¶ 22)

FACTUAL BACKGROUND

Talib and Grace alleged that, while customers at a Perkins Restaurant in Austintown, Ohio, in April 2023, they were not timely served and were not seated near the window or near white customers after requesting such seating. They believed the seating decision was racially discriminatory and later contacted Perkins about the incident. Their 2025 complaint asserted Ohio Consumer Sales Practices Act violations, unfair or deceptive practices, emotional-distress-related claims, intimidation, racism, and loss of consortium. The complaint arose from the same incident and telephone calls as their prior 2024 lawsuit, which had been dismissed and whose dismissal was affirmed on appeal.

PROCEDURAL HISTORY

Talib and Myron Grace filed a March 2025 complaint arising from an alleged discriminatory seating incident at a Perkins Restaurant and related telephone calls. Defendants moved to dismiss under Ohio Civ.R. 12(B)(6), arguing failure to plead a viable Ohio Consumer Sales Practices Act claim and asserting that the claims were barred by res judicata. Talib did not oppose the motion, and the trial court dismissed the complaint on July 24, 2025. Talib appealed pro se; Grace did not appeal. The appellate court affirmed the dismissal.

DISPOSITION

affirmed

CASES CITED

- Grace v. Perkins Restaurant, 2025-Ohio-213 (7th Dist.)
- State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs., 65 Ohio St.3d 545, 548 (1992)
- Mitchell v. Lawson Milk Co., 40 Ohio St.3d 190, 192 (1988)
- Ransom v. Erie Ins. Co., 2022-Ohio-3528, ¶ 13 (7th Dist.)
- Cincinnati v. Beretta U.S.A. Corp., 2002-Ohio-2480, ¶ 5
- Perrysburg Twp. v. Rossford, 2004-Ohio-4362, ¶ 5
- Scardina v. Ghannam, 2005-Ohio-3315, ¶ 13 (7th Dist.)
- Beer v. Griffith, 54 Ohio St.2d 440, 441-442 (1978)
- State v. Ramos, 88 Ohio App.3d 394, 398 (9th Dist. 1993)
- State v. Hughbanks, 2003-Ohio-187, ¶ 8 (1st Dist.)
- O'Nesti v. DeBartolo Realty Corp., 113 Ohio St.3d 59, 2007-Ohio-1102, 862 N.E.2d 803, ¶ 6
- Holzemer v. Urbanski, 86 Ohio St.3d 129, 133, 712 N.E.2d 713 (1999)
- State ex rel. Schachter v. Ohio Pub. Emps. Retirement Bd., 2009-Ohio-1704, ¶ 27
- State ex rel. Estate of Miles v. Piketon, 121 Ohio St.3d 231, 2009-Ohio-786, 903 N.E.2d 311, ¶ 30
- Davis v. Wal-Mart Stores, Inc., 93 Ohio St.3d 488, 491, 756 N.E.2d 657 (2001)
- AJZ's Hauling, L.L.C. v. TruNorth Warranty Programs of N. America, 2023-Ohio-3097, ¶ 18
- Sheridan v. Metro. Life Ins. Co., 2009-Ohio-1808, ¶ 12
- Reasoner v. Columbus, 2005-Ohio-468, ¶ 5
- Matter of E.T., 2023-Ohio-444, ¶ 58 (7th Dist.)

- Byers DiPaola Castle v. Ravenna City Planning Comm., 2011-Ohio-6095, ¶ 35
- Clark v. Scarpelli, 91 Ohio St.3d 271, 291 (2001)
- Cablevision of the Midwest, Inc. v. Gross, 70 Ohio St.3d 541, 544 (1994)
- Falcon Drilling Co., LLC v. Omni Energy Group, LLC, 2024-Ohio-2558, ¶ 80 (7th Dist.)
- State v. Fleischer, 2023-Ohio-3597, ¶ 17 (7th Dist.)
- State ex rel. Norris v. Adult Parole Auth., 2025-Ohio-5011, ¶ 10

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