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DISTRICT I

April 22, 2025

To:

Hon. William Sosnay
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Appeals Processing Division
Electronic Notice

Jody J. Schmelzer
Electronic Notice

Melvin Shelton
124 W. Hadley Street
Milwaukee, WI 53212

You are hereby notified that the Court has entered the following opinion and order:

2023AP1243 Melvin Shelton v. Kelly S. Kincaid (L.C. # 2023CV1389)

Before White, C.J., Donald, P.J., and Colón, J.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Melvin Shelton, *pro se*, appeals the circuit court order dismissing his 42 U.S.C. § 1983 claim against Kelly S. Kincaid. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] We affirm.

This action is the latest iteration of Shelton's continued pursuit of one issue: the requirement that he register as a sex offender for life through Wisconsin's Sex Offender Registry

[1] All references to the Wisconsin Statutes are to the 2023-24 version.

Program.[2] Shelton filed the underlying 42 U.S.C. § 1983 action against Kincaid, a registration specialist at the Department of Corrections (DOC). In his complaint, Shelton alleges that he was "[w]rongfully placed" on the sex offender registry and that this constitutes an "unconstitutional act."

Kincaid filed a motion to dismiss arguing that Shelton's action was barred based on the doctrine of claim preclusion and under the applicable statute of limitation. She additionally argued that Shelton's complaint should be dismissed for failure to state a claim upon which relief could be granted. Shelton filed a brief in opposition, Kincaid replied, and Shelton filed a sur-reply.

At the hearing on the motion to dismiss, the circuit court did not allow the parties to make additional oral arguments. Instead, the court explained that it had "reviewed [the briefs] and reviewed the file and the court is prepared to rule." The court dismissed the case for all of the reasons offered by Kincaid.

Shelton's arguments on appeal are difficult to follow. He appears to contest the circuit court's conclusion that his complaint failed to state a claim upon which relief could be granted. Shelton's argument is unavailing and fails to address the other alternative grounds for dismissal, including dismissal based on claim preclusion and the statute of limitations.

To resolve this matter, we focus exclusively on the doctrine of claim preclusion. The doctrine of claim preclusion provides that "a final judgment on the merits in one action bars

[2] Shelton was convicted of first-degree sexual assault in 1987. He was released from prison in 2007 and supervised until 2011, when he was discharged. Since his release in 2007, Shelton has been required to register as a sex offender.

parties from relitigating any claim that arises out of the same relevant facts, transactions, or occurrences." ***Kruckenberg v. Harvey***, 2005 WI 43, ¶19, 279 Wis. 2d 520, 694 N.W.2d 879. Whether a cause of action is barred by the doctrine of claim preclusion is a question of law that we determine independently. ***Id.***, ¶17.

The claim preclusion doctrine serves many important purposes. Claim preclusion is "designed to draw a line between the meritorious claim on the one hand and the vexatious, repetitious and needless claim on the other hand." ***Teske v. Wilson Mut. Ins. Co.***, 2019 WI 62, ¶24, 387 Wis. 2d 213, 928 N.W.2d 555 (citation omitted). The doctrine "provides an effective and useful means to establish and fix the rights of individuals, to relieve parties of the cost and vexation of multiple lawsuits, to conserve judicial resources, to prevent inconsistent decisions, and to encourage reliance on adjudication." ***Id.*** (citation omitted). This doctrine also recognizes that "endless litigation leads to chaos; that certainty in legal relations must be maintained; that after a party has had [the party's] day in court, justice, expediency, and the preservation of the public tranquility requires that the matter be at an end." ***Id.*** (citation omitted).

For claim preclusion to bar an action, the following elements must be present: "(1) identity between the parties or their privies in the prior and present suits; (2) [the] prior litigation resulted in a final judgment on the merits by a court with jurisdiction; and (3) identity of the causes of action in the two suits." ***Kruckenberg***, 279 Wis. 2d 520, ¶21 (citation omitted).

Shelton has made repeated challenges to the sex offender registry requirement against the DOC (or here, against Kincaid, in her capacity as a DOC official). *See* Milwaukee County Circuit Court case Nos. 1987CF7869 (resolving a motion for postconviction relief arguing "that

DOC overstepped its bounds and put him on lifetime supervision as a sex offender"); 2015CV3990 (addressing a civil lawsuit alleging the DOC acted negligently and deprived him of his civil rights by asking him to fill out forms from the Sex Offender Registry Program even though the sentencing court did not order him placed in the program); 2015CV9538 (alleging that at the time of his 1987 conviction there was no requirement to register as a sex offender for life, and, therefore, he was not required to register); 2019CV7331 (arguing among other things, that because Shelton was completely discharged from DOC supervision in 2011, he should not be required to register as a sex offender). These actions resulted in final decisions against him on the merits.[3]

Meanwhile, this court has issued three opinions in appeals filed by Shelton following the aforementioned circuit court decisions. *See* ***State v. Shelton*** (***Shelton I***), No. 2015AP688, unpublished op. and order (WI App Apr. 15, 2016); ***Shelton v. DOC*** (***Shelton II***), No. 2016AP220, unpublished slip op. (WI App May 31, 2017); ***Shelton v. Shelton*** (***Shelton III***), No. 2020AP364, unpublished op. and order (WI App Aug. 31, 2021). Both the circuit court in case No. 2015CF9538[4] and this court have separately concluded that Shelton's challenge to his lifetime sex offender registry requirement was barred by res judicata or claim preclusion.[5] *See*

[3] Although captioned as orders, the language employed made clear that they disposed of the entire matter in ligation and were intended to be appealable such that they operated as judgments on the merits.

[4] Shelton did not appeal the circuit court's decision in Milwaukee County Circuit Court case No. 2015CV9538.

[5] *See* ***Northern States Power Co. v. Bugher***, 189 Wis. 2d 541, 549-50, 525 N.W.2d 723 (1995) (adopting the term "claim preclusion" to replace "res judicata").

Shelton III, No. 2020AP364, at 3 ("[I]nsofar as Shelton continues to argue that he should not be required to register as a sex offender, we conclude this claim is barred by claim preclusion.").

The only argument against the application of claim preclusion that Shelton offers is his contention that the doctrine does not apply because Kincaid was not a party to the prior actions.[6] However, Kincaid, in her capacity as a DOC employee, is in privity with the DOC as to Shelton's latest challenge. *See* ***Northern States Power Co. v. Bugher***, 189 Wis. 2d 541, 551-53, 525 N.W.2d 723 (1995). Consequently, Shelton's fifth attempt to litigate his obligation to register as a sex offender is barred by claim preclusion. Because our conclusion in this regard is dispositive, we do not address whether the court properly dismissed Shelton's action on other bases. *See* ***Barrows v. American Fam. Ins. Co.***, 2014 WI App 11, ¶9, 352 Wis. 2d 436, 842 N.W.2d 508 (2013) ("An appellate court need not address every issue raised by the parties when one issue is dispositive.").

We note in passing that the circuit court did not violate Shelton's constitutional rights when it ruled on the underlying motion to dismiss without permitting oral argument. Shelton was afforded a full and fair opportunity to respond to the motion via briefing prior to the hearing. The circuit court has discretion to manage courtroom proceedings. *See generally* ***Lentz v. Young***, 195 Wis. 2d 457, 465-66, 536 N.W.2d 451 (Ct. App. 1995) (discussing that courts have inherent discretionary power to control their dockets), *overruled on other grounds by* ***Maple Grove Country Club Inc. v. Maple Grove Ests. Sanitary Dist.***, 2019 WI 43, ¶¶46-48, 386 Wis. 2d 425, 926 N.W.2d 184.

[6] As noted, Shelton did not develop a coherent argument against claim preclusion in his opening brief. He made this argument for the first time in his reply brief.

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals