

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted March 17, 2025*

Decided March 24, 2025

Before

FRANK. H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1266

ARNOLD G. PHILLIPS,
Plaintiff-Appellant,

v.

CECILIA ABUNDIS, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:23-cv-00490

John Robert Blakey,
Judge.

ORDER

Arnold Phillips, a doctor, sued several members of the Illinois Department of Financial and Professional Regulation under 42 U.S.C. § 1983 for violations of his constitutional rights principally in connection with the suspension of his medical

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

license. The district court dismissed his case because his claim was barred by a settlement agreement. We affirm.

In 2011, the Department initiated a disciplinary proceeding against Phillips for recommending unnecessary medical tests to a patient. In 2013, the Department fined him \$10,000. Phillips appealed the decision in state court, refusing to pay the fine while he awaited the outcome of his appeal. Further proceedings ensued, and in 2016 the Illinois Appellate Court upheld the imposition of the fine. During the pendency of his state court appeal, Phillips could not renew his license because of his outstanding fine. When he tried to renew his license in 2017, he discovered that its status was changed to “inactive.”

Around this time, Phillips sued the Department and many of its officers in federal court under 42 U.S.C. § 1983 for deactivating his medical license without notice or a hearing, in violation of due process. In 2021, he entered into a settlement agreement with the Department and agreed to release all defendants and the State of Illinois from any claims that could arise from the facts alleged in his lawsuit.

In 2023, Phillips brought another § 1983 suit against officers of the Department, repeating his due process theory but adding an assertion that the assistant state’s attorney falsified evidence when presenting the case against him at his administrative hearing, in violation of his right to equal protection. The defendants moved to dismiss the complaint for failure to state a claim and lack of jurisdiction. *See* FED. R. CIV. P. 12(b)(1), (6).

The district court granted the motion. The court concluded, first, that the settlement agreement barred Phillips’s due process argument concerning the deactivation of his license. (We pause to note that this is an affirmative defense that was not appropriate for a Rule 12(b)(6) motion and should have been raised instead in an answer to a complaint, followed by a motion under Rule 12(c) for judgment on the pleadings. *Gunn v. Continental Casualty Co.*, 968 F.3d 802, 806 (7th Cir. 2020).) As to Phillips’s argument about the disposition of his administrative proceeding, the court found it barred by the *Rooker-Feldman* doctrine because he sought review of a state-court judgment. *See Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of App. v. Feldman*, 460 U.S. 462 (1983). The court added, in the alternative, that Phillips’s argument would fail for the independent reason that any claims arising from the administrative proceedings were time-barred.

Phillips appeals, contending that the *Rooker-Feldman* doctrine does not apply to his argument about his administrative hearing. He maintains that the relief he now seeks in federal court does not require overturning a state court decision.

We agree that *Rooker-Feldman* is inapplicable here. The doctrine, which occupies “narrow ground,” applies only when the complained-of injury is “caused” by a state-court judgment. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). But the alleged injury here—the imposition of a fine resulting from the Department’s falsification of evidence in an administrative proceeding—was caused not by a state-court judgment but a determination of a state administrative agency. *Rooker-Feldman* “has no application to judicial review of executive action, including determinations made by a state administrative agency.” *Verizon Md., Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 644 n.3 (2002). See also *Taylor v. Salvation Army Nat’l Corp.*, 110 F.4th 1017, 1026 (7th Cir. 2024). Where, as here, the injury preceded the state-court judgment, the judgment could not have caused the injury, so a claim based on that injury is independent of the state-court judgment. *Gilbank v. Wood Cnty. Dep’t of Human Servs.*, 111 F.4th 754, 767 (7th Cir. 2024) (en banc) (citing *Andrade v. City of Hammond*, 9 F.4th 948, 950–51 (7th Cir. 2021)).

Nevertheless, Phillips’s theory regarding his 2011 administrative hearing is barred by the statute of limitations. The statute of limitations for claims under § 1983 is determined by state law, and in Illinois the applicable period is two years. *Towne v. Donnelly*, 44 F.4th 666, 670 (7th Cir. 2022). Phillips’s § 1983 claim accrued at the latest in 2013. At that point, Phillips would have observed any falsified information presented in his hearing and the Department’s decision to fine him would have put him on notice of an injury resulting from this alleged violation of his rights. See *Milchtein v. Milwaukee Cnty.*, 42 F.4th 814, 822 (7th Cir. 2022). Thus, the claim he filed in 2023 was out of time.

Phillips’s argument that changing his licensure status to “inactive” without notice or a hearing violated his right to due process is barred by the settlement agreement he signed with the Department after his 2016 lawsuit. That agreement releases any claim that “could have arisen” from the facts alleged in his 2016 suit against “former and present employees” of the State of Illinois. The argument he brings now—that he was denied due process when his license was deactivated—duplicates what he raised in that suit; it therefore falls within the coverage of the agreement. See *Crosby v. City of Chicago*, 949 F.3d 358, 361–62 (7th Cir. 2020) (similarly worded release in agreement settling arrestee’s prior § 1983 excessive force action barred his current claims).

We close with a note about the judgment. The district court dismissed the case under *Rooker-Feldman* with prejudice. That was not correct; a dismissal under *Rooker-Feldman* is jurisdictional and thus without prejudice. *Lauderdale-El v. Indiana Parole Board*, 35 F.4th 572, 576 (7th Cir. 2022). But a dismissal for untimeliness—our alternative ground for affirmance—typically is with prejudice, see *Orgone Capital III, LLC v. Daubenspeck*, 912 F.3d 1039, 1049 (7th Cir. 2019), so there is no need to modify the judgment.

AFFIRMED