

NONPRECEDENTIAL DISPOSITION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 July 14, 2026*

Decided July 14, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*

KENNETH F. RIPPLE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 25-1188

MICHAEL HOUSTON, et al.,
Plaintiffs-Appellants,

v.

CITY OF CHICAGO, et al.,
Defendants-Appellees.

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

No. 20 CV 06720

Jeremy C. Daniel,
Judge.

* 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).

ORDER

Rosie Houston and her children, Michael Houston, Steve Houston, and Yvonne Whitley,¹ filed a pro se lawsuit in federal court, alleging that the City of Chicago and several of its employees violated their constitutional rights by demolishing their home. *See* 42 U.S.C. § 1983. While the lawsuit was pending, Rosie passed away, and Michael was appointed as the special representative of her estate. The district court dismissed the estate's claims with prejudice for failure to prosecute after Michael failed to obtain an attorney to represent the estate. We affirm.

Rosie, Michael, Steve, and Yvonne sued the City and several employees in 2020 for violating their rights under the Fourth and Fourteenth Amendments and state law after the City demolished their home. Litigation proceeded through February 2024, when the City filed a suggestion of death for Rosie, and the plaintiffs requested that Michael be substituted to represent Rosie's estate. FED. R. CIV. P. 25(a)(1). The plaintiffs explained that Rosie died intestate and they were her only surviving heirs. The court granted the plaintiffs' motion and appointed Michael as the special representative of Rosie's estate. *See* 735 ILCS 5/2-1008(b)(1).

In September 2024, the court sua sponte questioned whether Michael could represent the estate pro se. Although Michael was the legal representative of Rosie's estate, the court explained, he could not sue pro se on its behalf. The court gave Michael 60 days to find an attorney for the estate and warned that failure to do so may result in dismissal of the estate's claims.

In October, the court held a hearing on the matter of the estate's representation. The plaintiffs explained that because they were the only heirs to the estate, they should be permitted to allow Michael, as the special representative, to represent the estate without an attorney. The court disagreed, stating that it did not have the authority to allow an estate with multiple beneficiaries to be represented by a non-attorney. The court explained that it would dismiss the estate's claims if the plaintiffs did not retain counsel for it. The court gave the plaintiffs until December to find an attorney.

The plaintiffs returned to court in December without counsel for the estate. They renewed their argument that Michael could represent the estate pro se but asked for

¹ To avoid confusion, we will use first names when referring to plaintiffs separately because Rosie, Michael, and Steve share the same last name.

more time to find counsel. The court refused their request and dismissed the estate's claims. The court stated that the dismissal was with prejudice for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. But the court's written order, entered the same day as the hearing, stated that the dismissal was without prejudice because under Illinois law, heirs do not have standing to file a suit on behalf of a decedent.

Because of the inconsistency between the oral and written rulings, the City moved to clarify and convert the dismissal to one with prejudice under Rule 41(b). The City explained that Michael, as the special representative of Rosie's estate, had standing to bring claims on behalf of the estate. But he could not do so without an attorney. Thus, the city argued, the dismissal of the estate's claims was a result of Michael's failure to obtain counsel for the estate despite the court's repeated orders. Accordingly, the dismissal should have been with prejudice for failure to prosecute.

The court granted the motion in January 2025 and dismissed the estate's claims with prejudice for failure to prosecute. The court again explained that Michael could not represent Rosie's estate pro se because it has at least three beneficiaries (Michael, Steve, and Yvonne). *See* 755 ILCS 5/2-1(b). And despite numerous warnings from the court that failure to secure counsel would result in the dismissal of the estate's claims, Michael did not obtain counsel for the estate.

The plaintiffs then filed a notice of appeal in February, seeking to appeal only the court's order related to the dismissal of the estate's claims. Their own claims against the City are still being litigated in the district court.

In April, we asked the parties to address fully in their briefs whether we have jurisdiction over this appeal under the collateral-order doctrine. The plaintiffs did so in their opening brief, filed in June.

But in August, the City moved the district court to amend the order dismissing the estate's claims to direct entry of a final judgment on those claims. *See* FED. R. CIV. P. 54(b). It said that "all parties share the view that now is the appropriate time to resolve the question of whether the Estate is required to have counsel."

The court granted the motion in September and entered judgment under Rule 54(b). The plaintiffs moved to reconsider. But the court denied that motion, noting that

“granting the defendants’ motion [] cleared the way for the plaintiffs’ appeal to proceed,” and that the belated Rule 54(b) judgment perfected the right to appeal.

We begin, as we must, with the matter of our jurisdiction over this appeal. Rule 54(b) permits a federal court to “direct entry of a final judgment as to one or more, but fewer than all, claims or parties” when the court “expressly determines that there is no just reason for delay.” FED. R. CIV. P. 54(b). A district court’s certification under Rule 54(b) is proper where there is (1) “truly a final judgment” and (2) “no just reason to delay the appeal.” *Rankins v. Sys. Sols. of Ky., LLC*, 40 F.4th 589, 592 (7th Cir. 2022). We review the first requirement de novo and the second for abuse of discretion. *Id.*

We test whether a judgment is final by examining “the degree of overlap between the certified claim and all other parts of the case that are still pending in the district court.” *Id.* Rule 54(b) may “be employed only when the subjects of the partial judgment do not overlap with those ongoing in the district court.” *Factory Mut. Ins. Co. v. Bobst Grp. USA, Inc.*, 392 F.3d 922, 924 (7th Cir. 2004). Conversely, “[c]laims are intertwined ... if the resolution of the claims pending in the district court could ‘undercut’ or otherwise alter the ‘final’ claim.” *Rankins*, 40 F.4th at 592 (quoting *VDF FutureCeuticals, Inc. v. Stiefel Lab’y, Inc.*, 792 F.3d 842, 845 (7th Cir. 2015)).

Here, the judgment is final because the subjects of the partial judgment on the estate’s claims do not overlap with the claims ongoing in the district court. The estate’s claims were dismissed for failure to prosecute after Michael did not secure an attorney to represent the estate. The partial judgment involves only whether Michael may represent the estate pro se and whether the district court properly dismissed the estate’s claims for failure to prosecute after Michael failed to obtain an attorney to represent the estate. Continued adjudication on the merits of the individual plaintiffs’ constitutional and state-law claims will not alter the judgment on the estate’s claims.

As to the second requirement, the district court did not abuse its discretion by finding no just reason to delay the appeal. After the plaintiffs refused repeatedly to find an attorney for the estate, both parties expressed interest in moving forward the litigation on the estate’s claims.² Further, no “judicial administrative interest[]” would

² We have held that “delay by the would-be appellant can translate to abuse of discretion by the district court, if the upshot is to negate the required finding of ‘no just reason for delay.’” *DaSilva v. Indiana*, 30 F.4th 671, 673 (7th Cir. 2022) (citing *King v. Newbold*, 845 F.3d 866, 868 (7th Cir. 2017) & *Schaefer v. First Nat’l Bank of Lincolnwood*,

be served by further delay. *WEC 98C-3 LLC v. SFA Holdings Inc.*, 99 F.4th 961, 969 (7th Cir. 2024) (quoting *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980)). The nature of the district court's dismissal will not require an appellate court "to decide the same issues more than once even if there were subsequent appeals." *Curtiss-Wright Corp.*, 446 U.S. at 8.

Because the district court properly certified the judgment under Rule 54(b), we consider one final wrinkle: Is our jurisdiction disturbed because the Rule 54(b) judgment came after the notice of appeal? It is not. "[A] premature notice of appeal from the dismissal of a party or claim will ripen upon the entry of a belated Rule 54(b) judgment." *Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 189 (7th Cir. 2011). Accordingly, the notice of appeal is treated as constructively filed on the date the district court ruled on the Rule 54(b) motion for entry of final judgment. *See id.* at 187–89; FED. R. APP. P. 4(a)(2).³

Our jurisdiction secure, we turn to the merits. The appellants make only one argument: Michael should be able to represent the estate pro se because he is a party to the lawsuit in his individual capacity. They cite language from *In re Estate of Mattson*, 131 N.E.3d 578 (Ill. App. Ct. 2019), where the Illinois Appellate Court stated that a pro se litigant could not represent the legal interests of an estate because "he is not a licensed attorney or a party to this suit." *Id.* at 580. The plaintiffs infer from this language that because Michael is a party to this suit, he may represent the estate. On this ground, they argue that the district court's dismissal of the estate's claims was an abuse of discretion. *See Next Millennium Telecom Co. v. Am. Signal Corp.*, 112 F.4th 481, 484 (7th Cir. 2024).

But this language from *Mattson* does not affect whether a non-attorney may represent an estate in federal court. While state law provides Michael with the capacity

465 F.2d 234, 236 (7th Cir. 1972)). This is so because "[w]hen the party seeking to appeal takes too much time to request a Rule 54(b) judgment, that creates delay and undermines the function of a partial final judgment." *Id.* The plaintiffs urge that the district court's grant of the City's motion for certification under Rule 54(b), filed nine months after the estate's claims were dismissed, was an abuse of discretion. But we see no abuse of discretion given the unusual circumstances of this case. The City's belated motion helped facilitate the plaintiffs' already-filed appeal by ensuring our jurisdiction.

³ Because our jurisdiction is secure under Rule 54(b), we need not explore whether the collateral-order doctrine applies here.

to sue on behalf of the estate as its special representative, FED. R. CIV. P. 17(b), federal law dictates whether he has a right to act in federal court for the estate, *Elustra v. Mineo*, 595 F.3d 699, 704 (7th Cir. 2010). And we have held that an administrator may not represent an estate in court pro se where the estate has multiple beneficiaries. *Malone v. Nielson*, 474 F.3d 934, 937 (7th Cir. 2007); see also *Clark v. Santander Bank, N.A.*, 122 F.4th 56, 60 (2d Cir. 2024); *Murray ex rel. Purnell v. City of Philadelphia*, 901 F.3d 169, 171 (3d Cir. 2018); *Iriele v. Griffin*, 65 F.4th 1280, 1285 (11th Cir. 2023). Rosie's estate has at least three beneficiaries: Michael, Steve, and Yvonne. Michael cannot represent his siblings' interests as a non-attorney.

Further, we see no abuse of discretion in the district court's decision to dismiss the estate's claims with prejudice for failure to prosecute where Michael could not represent the estate pro se and the court ordered the plaintiffs numerous times to obtain counsel or risk dismissal. See *Dupree v. Hardy*, 859 F.3d 458, 463 (7th Cir. 2017) (dismissal appropriate where litigant failed to appear at two hearings and was warned of the possibility of dismissal as a result). The district court allowed the plaintiffs three months to find an attorney. And although the plaintiffs initially made some effort to comply, they continued to argue that an attorney was not needed even after the district court said it would not continue entertaining that argument. The district court appropriately dismissed the estate's claims after it became clear that the plaintiffs were not going to comply with the order to obtain counsel for the estate.

AFFIRMED