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**HALE V. COMM. ON CHARACTER & FITNESS,
335 F.3D 678 (7TH CIR. 2003)**

FACTS

Matthew Hale, a public advocate of white supremacy and leader of an organization dedicated to racism and anti-Semitism,¹ graduated from Southern Illinois University School of Law in 1998.² Hale passed the written examination for the Illinois State Bar but mentioned his role in promoting racism and anti-Semitism on his character and fitness examination.³ A single member of the Committee on Character and Fitness of the Third Judicial District of the State of Illinois (Committee) reviewed Hale's application and recommended denying him a license to practice law in Illinois.⁴ The Chairperson of the Committee directed a three-person inquiry panel to review the application further.⁵ In a written decision, the panel denied Hale admission due to his active commitment to bigotry.⁶ The panel reasoned that such bigotry demonstrated a "gross deficiency in moral character" and suggested a likelihood of behavior unbecoming a member of the bar.⁷

A five-member hearing panel reviewed Hale's application for a final determination.⁸ The hearing panel denied Hale's application because he failed to satisfy his burden of proof that he possessed the requisite character and fitness.⁹ The hearing panel distinguished Hale's First Amendment right to express his ideas from his right to become a member of the Illinois Bar and asserted that the case was not about Hale's First Amendment rights.¹⁰ Hale's intent to continue racial discrimination in his private life, coupled with the negative character evidence, failed to comport with the Illinois Rules of Professional Conduct and provided the basis for his denial.¹¹ Additionally, the hearing panel believed that Hale was likely to act in a manner inconsistent with membership in the bar in the future.¹²

Hale petitioned the Illinois Supreme Court to reconsider the Committee's decision, challenging the constitutionality of the disciplinary

¹ Hale v. Comm. on Character & Fitness, 335 F.3d 678, 679 (7th Cir. 2003). Hale led the organization formerly known as the "World Church of the Creator." *Id.* at 680 n.1. As leader of this group, he sought to legally abolish equal protection and to deport non-white Americans by non-violent means. *Id.* at 680.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 681.

¹⁰ *Id.* at 680.

¹¹ *Id.* at 681.

¹² *Id.*

rule and claiming violations of his First and Fourteenth Amendment rights.¹³ He claimed that the Committee founded its decision on speculation about his likelihood of future conduct and its distaste for his beliefs.¹⁴ The court denied Hale's petition for review and left the Committee's decision undisturbed.¹⁵ Hale then filed a petition for a writ of certiorari with the United States Supreme Court, which the Court denied without comment.¹⁶

Hale next filed suit in the United States District Court for the Northern District of Illinois, asserting claims under 42 U.S.C. § 1983 for violations to his First Amendment freedoms of expression and association and his Fourteenth Amendment due process and equal protection rights.¹⁷ He also sought a declaration that the disciplinary rule facially violated First Amendment principles and that state procedural rules violated the Fourteenth Amendment by failing to provide bar applicants with a fair hearing.¹⁸ The district court dismissed the suit due to *res judicata* and Hale appealed.¹⁹

HOLDING

The Court of Appeals for the Seventh Circuit affirmed the judgment of the district court and held that the Illinois Supreme Court's decision not to review the denial of Hale's bar application constituted a judicial adjudication on the merits, thus barring the suit from re-litigation.²⁰

ANALYSIS

The court of appeals began its analysis by explaining that the *Rooker-Feldman* doctrine²¹ prohibits federal courts from reviewing decisions

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See id.*

¹⁹ *Id.* at 682.

²⁰ *Id.* at 682, 684.

²¹ *See* D.C. Ct. of App. v. Feldman, 460 U.S. 462, 486 (1983) (holding that the consideration of waiver petitions is a judicial proceeding and that federal district courts lack jurisdiction over challenges to state court decisions arising out of judicial proceedings); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923) (holding that federal district courts do not have appellate jurisdiction over judicial proceedings in state courts). In *Rooker*, plaintiffs filed in federal district court to have a judgment of an Indiana court nullified on the ground that it contravened the Contract Clause of the Constitution. *Rooker*, 263 U.S. at 414-15. The district court dismissed the case due to lack of subject matter jurisdiction and the plaintiffs appealed. *Id.* at 415. The Supreme Court held that district courts do not have appellate jurisdiction over judicial proceedings in state courts. *Id.* at 416. In *Feldman*, the plaintiffs filed petitions in the District of Columbia Court of Appeals for waivers of an admission rule requiring applicants to have graduated from a law school approved by the American Bar Association. *Feldman*, 460 U.S. at 466, 471. The court denied the petitions and the plaintiffs appealed in federal district court. *Id.* at 468-72. The Supreme

of state courts when there has been a judicial proceeding on the merits.²² Therefore, if the Illinois Supreme Court's decision to uphold Hale's bar application denial qualified as a "judicial proceeding," the court of appeals would have to affirm the district court's dismissal of the suit.²³

The court of appeals next explained the Illinois law behind the bar application review process.²⁴ Under Illinois law, a bar applicant can appeal a denial by the Committee by petitioning the Illinois Supreme Court.²⁵ The Illinois Supreme Court then has the option of denying the petition or reviewing the Committee's decision.²⁶ Hale contended that by denying his review petition, the Illinois Supreme Court effectively denied him a forum in which his constitutional challenges to the Committee's decision could be adjudicated, thus violating his Fourteenth Amendment right to due process.²⁷

In support, Hale compared the Illinois Supreme Court's role in bar application review petitions to its role in ordinary applications for leave to appeal from the appellate court, and to the United State Supreme Court's role in ruling on petitions for a writ of certiorari.²⁸ In both situations, a court's decision to deny a petition would carry no implication about the merits of the underlying case.²⁹ Thus, Hale argued that he had not had a "prior opportunity to litigate his constitutional challenges" because the Illinois Supreme Court had not adjudicated his case on the merits.³⁰

The court of appeals admitted that Hale would have a strong case if, when dealing with review petitions, the Illinois Supreme Court's sole role was acceptance or rejection of the review petition.³¹ However, the court of appeals rejected this analogy.³² The court of appeals pointed out that no rule required the Illinois Supreme Court to grant a full briefing and oral arguments for every case.³³ Therefore, the Illinois Supreme Court was within the bounds of due process when it decided on the merits, without a

Court held that the consideration of waiver petitions was judicial, as opposed to ministerial, in nature and that the District of Columbia Court of Appeals had therefore adjudicated claims of a right to admission to the bar. *Id.* at 479-82. The Court stated that federal district courts lack appellate jurisdiction over challenges to state court decisions arising out of judicial proceedings, although they do have jurisdiction over general challenges to state bar rules promulgated in non-judicial proceedings. *See id.* at 484-86.

²² *See* Hale v. Comm. on Character & Fitness, 335 F.3d 678, 682 (7th Cir. 2003).

²³ *See id.*

²⁴ *See id.* at 683.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *See id.* at 681, 684.

²⁸ *Id.* at 683.

²⁹ *Id.* at 684.

³⁰ *See id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

hearing, not to override the Committee's denial of Hale's bar application.³⁴ Additionally, the United States Supreme Court, in denying Hale's application for certiorari, had considered whether the Illinois Supreme Court's decision violated Hale's constitutional rights and had elected not to hear the case.³⁵ Thus, the court of appeals concluded that Hale had a prior opportunity to litigate his claims and affirmed the district court's dismissal of the case.³⁶

CONCLUSION

Hale addresses what constitutes adjudication on the merits. The *Hale* court barred Hale from re-litigating because the Committee had already reviewed the facts of his case several times.³⁷ The court further stated that as long as there is a judicial proceeding, the issue has been adjudicated on the merits.³⁸ This result is good for the conservation of judicial resources because it puts a limit on the number of times a plaintiff can litigate a case.

An efficient use of judicial resources is important, but there are other important aspects of the decision. A difference in the standard of review may mean that not every case is subject to the same standards. However, the judiciary and an independently appointed committee may review and weigh evidence using different standards. Because the Committee in *Hale* was a panel of attorneys appointed by the Supreme Court of Illinois, it is more than likely that the Committee reviewed Hale circumstances fairly.³⁹ In the future, however, an inconsistent standard of review could lead to a discrepancy in access to fair and just judicial proceedings because such proceedings would constitute a final adjudication on the merits.

Finally, this case allows a bar organization to determine whether or not a particular applicant is a good fit. The issue was whether Hale's actions were consistent with the tenets of bar membership and not the content of his personal beliefs. The use of subjective standards is an important and necessary aspect to maintaining standards in the legal profession. An organization should have the right to deny membership to someone that openly expresses opposition to the views of the organization. Thus, the Committee reached the correct determination.

Summary and Analysis Prepared By:
Malika Simmons

³⁴ *Id.*

³⁵ *Id.* at 682.

³⁶ *Id.* at 684.

³⁷ *Id.* at 680.

³⁸ *See id.* at 684.

³⁹ *See id.*