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INTRODUCTION

Even after *Iqbal* and *Twombly* were decided, the Supreme Court cases which supposedly provided better guidance on the pleading standard lawyers use today, the legal community continued to struggled with properly applying these pleading principles in the courtroom.[1] This confusion is not unusual, considering that the U.S. legal system can easily be perceived as a labyrinth of obscurity with no visible path, and even with professional expertise, the light at the end of the tunnel is not always bright. As a result of this obscurity, a lawyer's first task should be to become an expert of the facts and the

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[1] Alexander A. Reinert, The Supreme Court's Civil Assault on Civil Procedure, 41 Hum. Rts. Mag. (2015).

law of the case.[2] Furthermore, at the appellate stage, knowing your case means, first and foremost, knowing the record.[3]

Jose Andrade's counsel excelled with their knowledge of the record when advocating for their client in the United States Court of Appeals for the Seventh Circuit.[4] *Jose Andrade v. City of Hammond, Indiana*, is a convoluted case about a landlord who was barred from raising a claim in federal court after previously filing a suit and having that suit decided, alleging the same facts but with different claims, in state court. Specifically, the legal doctrine which was used to bar the landlord is known as the confusing *Rooker-Feldman* doctrine.[5]

In essence, the *Rooker-Feldman* doctrine explains that federal courts are not vested with appellate jurisdiction, aside from the Supreme Court of the United States and are therefore barred from reviewing final state court judgements regardless of how wrongly decided they might appear to be.[6] Interestingly, as some scholars have pointed out, it is astonishing that the *Rooker-Feldman* doctrine is still frequently used today by federal courts considering how infrequently legal academics research it.[7] Some commentators have even gone so far in comically acknowledging that *Rooker-Feldman* has passed away and is buried in its graveyard hoping to never be seen again, which is quite unfortunate.[8]

Nonetheless, to argue that *Rooker-Feldman* is unimportant would be like saying the Earth is flat. Federal courts still heavily rely

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[2] ANTONIN SCALIA & BRYAN A. GARNER, MAKING YOUR CASE: THE ART OF PERSUADING JUDGES 8 (2008).

[3] Scalia & Garner, *supra*, note 2 at 8.

[4] *See* Andrade v. Hammond, Indiana, 9 F.4th 947, 948 (7th Cir. 2021).

[5] *Id.*

[6] *Id.* at 952

[7] Dustin E. Buehler, Revisiting Rooker-Feldman: Extending the Doctrine to State Court Interlocutory Orders, 36 FLA. ST. U. L. REV. (2009), (Nov. 15, 2021, 3:45 PM), https://ir.law.fsu.edu/lr/vol36/iss3/2.

[8] *See* Samuel Bray, *Rooker Feldman (1923-2006)*, 9 GREEN BAG 2D 317, 317 (2006). Bray wrote a satirical obituary: "Rooker-Feldman, the legal personality, died yesterday at his home in Washington D.C. He was 83.".

on *Rooker-Feldman* to rid themselves of cases that further augment their filled dockets.[9] This is true even though the Supreme Court has stated that *Rooker-Feldman* should not be a federal court's first instinct when a federal lawsuit overlaps with an earlier lawsuit in state court.[10]

Part I of this Article will explain what the *Rooker-Feldman* Doctrine is, the intricacies of it, and the reasons why the Seventh Circuit Court of Appeals applied the correct test when analyzing it. Part II will explain how the Seventh Circuit correctly differentiated the *Andrade* case from other similar cases when applying *Rooker-Feldman*. Part III will explain the next steps of *Andrade*, specifically in connection to the preclusion doctrine, and additional comments from both parties after the Seventh Circuit decision.

Rooker-Feldman

The *Rooker-Feldman* doctrine originated from two landmark cases, *Rooker v. Fidelity Trust Co.*[11] and *District of Colombia Court of Appeals v. Feldman*,[12] which helped solidify principles not explicitly stated in the U.S. Code. The first provision addressed in the cases is Title 28 of the United States Code Section 1257, which states that:

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where

[9] Beuhler, *supra* note 1, at 375.

[10] *Andrade*, 9 F.4th at 951.

[11] Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923). *Rooker* is discussed in detail *infra*, page 4.

[12] D.C. Ct. of Appeals v. Feldman, 460 U.S. 462 (1983). Feldman is discussed in detail *infra*, page 4.

> any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.[13]

The second code provision at issue is Title 28 of the United States Code Section 1331 which states that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."[14]

The rule from these two provisions, while not explicitly stated, is that federal courts are barred from reviewing final state court judgements regardless of how wrong they might be, and further that only the Supreme Court may review a final state court judgement.[15]

Rooker v. Fidelity Trust Co., argued in 1923, involved a married couple who transferred the deed to their house to a bank, the Fidelity Trust Company, in exchange for a loan that they ultimately failed to pay back.[16] After more than two decades of litigation, the married couple sought to have the final state court judgement, which they lost, declared null and void by a federal district court. An issue arose from the later-filed lawsuit: the couple was attempting to obtain other relief from that final state court judgement which was already decided.[17] The Supreme Court affirmed the federal district court in having the lawsuit dismissed reasoning that the federal court in essence would act as appellate courts to the final state court judgement.[18] The Supreme Court concluded that when a case has gone through all the steps at the state level correctly, then that decision is binding and only the Supreme Court will have the right to hear any disputes that arise from that judgement.[19]

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[13] 28 U.S.C.A. § 1257 (West).

[14] 28 U.S.C.A. § 1331 (West).

[15] *Andrade*, 9 F.4th at 952.

[16] *See Rooker*, 263 U.S. at 414–417.

[17] *Id.*

[18] *Id.*

[19] *Id.*

District of Colombia Court of Appeals v. Feldman involved two bar exam applicants who asked the District of Colombia Court of Appeals for waivers to a rule requiring bar applicants to have graduated from an American Bar Association-approved law school.[20] The court denied the bar applicants' request, and the bar applicants responded subsequently by challenging the denials in the United States District Court for the District of Colombia.[21] The district court dismissed the bar applicants' complaint on the ground that it lacked subject matter jurisdiction to hear challenges to state court decisions arising out of judicial proceedings.[22] However, on appeal, the United States Court of Appeals for the District of Colombia Circuit held that the district court did have jurisdiction to review constitutional challenges to the rule barring admission.[23]

The *Rooker-Feldman* Test

[20] See *Feldman*, 460 U.S. at 466 ("In his petition, Feldman described his legal training, work experience, and other qualifications. He suggested that his professional training and education were "equal to that received by those who have attended an A.B.A. approved law school." In view of his training, experience, and success in passing the bar examinations in other jurisdictions, Feldman stated that "the objectives of the District of Columbia's procedures and requirements for admission to the Bar will not be frustrated by granting this petition.") *Id.*

[21] *Id.* at 468. The court noted that "while the Committee on Admissions had recognized Mr. Feldman's 'exceptional opportunity for training'" and his fine personal qualities, the purpose of the rule at issue was "to prevent the Committee and the Court from assuming the practicably impossible task of making separate subjective evaluations of each applicant's training and education; hence, an objective and reasonable standard as prescribed by the rule must be utilized." In this light, the court decided not to waive the rule and upheld the Committee's denial of Feldman's application." *Id.*

[22] *Id.* at 470.

[23] *Id.* at 487. This separation is important because as the court notes "in deciding that the District Court has jurisdiction over those elements of the respondents' complaints that involve a general challenge to the constitutionality of Rule 46 I(b)(3), we expressly do not reach the question of whether the doctrine of res judicata forecloses litigation on these elements of the complaints. We leave that question to the District Court on remand." *Id.*

When a plaintiff, who loses in state court, presents a new claim in federal court that is dependent on the same operative facts from that case which the plaintiff lost, opposing counsel will have the opportunity to answer with a motion for summary judgment asking the court to dismiss the claim since *Rooker-Feldman* has divested the court of jurisdiction. The court will then analyze whether the *Rooker-Feldman* doctrine applies by applying a two-step test.[24]

The first part of the test "consider[s] whether a plaintiff's federal claims are "'independent'" or, instead, whether they "'either directly"' challenge a state court judgment or are "'inextricably intertwined with one.'"[25] If the claim at issue is considered to be independent from a state court judgement, then *Rooker-Feldman* cannot be used as a bar for the claim brought to federal court.[26] If a court determines that the claim at issue either directly challenges a state court judgement or is inextricably intertwined with one, then the analysis proceeds to the next step.[27] Step two requires a court to consider whether the plaintiff had a reasonable opportunity to present the injury in state court proceedings, and "only if the plaintiff did have such an opportunity does *Rooker-Feldman* strip federal courts of jurisdiction."[28]

Confusion Regarding the "Inextricably Intertwined" Verbiage and What Courts Should Follow Instead

There is no doubt that the *Rooker-Feldman* test is not simple, and that it does not achieve correct results all the time.[29] To argue otherwise would be to negate the various claims that have been brought to court and dismissed for applying *Rooker-Feldman*

[24] Op. and Order. 1, ECF No. 73.

[25] Andrade v. Hammond, Indiana, 9 F.4th 947, 951 (7th Cir. 2021).

[26] *Id.*

[27] *Id*.

[28] *Id.*

[29] Beuhler, *supra* note 2, at 374.

incorrectly.[30] Although *Rooker-Feldman* is only analyzed when a newly filed federal complaint is alleged to challenge a final state court judgement,[31] it is usually difficult to distinguish those cases which are completely independent from a final state court judgement from those that are not.[32] There is usually at least some aspect of the final state court judgement which is tied with that newly filed federal claim.[33] As mentioned before, even judges have a difficult time applying the doctrine.[34]

As a result, there are important steps litigants should follow when arguing on behalf of their client who was injured by an administrative entity. A strong brief will contain the following: first, the party who lost in state court (the party who filed the federal lawsuit) sustained an injury; second, the injury must not have been remedied; and third, the injury must have occurred before the state court proceedings began. In short, the losing party who sustained the injury will have to convince a federal court that the alleged injury is completely independent of the final state court judgement.

Previously, litigants would apply the "inextricably intertwined" verbiage when arguing under *Rooker-Feldman*, used both by the Seventh Circuit and the state courts of Indiana in *Andrade*.

This paper advocates, in light of *Andrade*, that the "inextricably intertwined" verbiage should not be used when applying *Rooker-Feldman* to a case in the Seventh Circuit's jurisdiction.[35] Because two courts connected with *Andrade*, the Court of Appeals of Indiana and the Seventh Circuit Court of Appeals, incorrectly mentioned the inextricably intertwined verbiage, it is not appropriate for use in future *Rooker-Feldman* analyses.

Chief Judge Sykes states that the inextricably intertwined verbiage should not be used any longer to determine cases under

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[30] Beuhler, *supra* note 2, at 375.

[31] *See* Rooker v. Fidelity Trust Co., 263 U.S. 413, 414 (1923).

[32] *Andrade* at 951.

[33] *See* D.C. Ct. of Appeals v. Feldman, 460 U.S. 462, 479 (1983).

[34] *Id.*

[35] *Id.* at 951–54.

Rooker-Feldman.[36] Chief Judge Sykes ended her concurrence in *Andrade* by reminding the panel that the inextricably intertwined verbiage is the "wrong starting point" in using the doctrine.[37] Sykes argued that using the verbiage of the inextricably intertwined doctrine is inconsistent with the now familiar standard that comes from *Exxon Mobil v. Saudi Basic Industries Corp.*[38]

In *Exxon Mobil*, a case involving two subsidiaries of an American corporation who got in a dispute over royalties with a Saudi corporation and where the American corporation and subsidiaries filed a federal action in the event that they might lose in state court, the U.S. Supreme Court narrowed the use of the *Rooker-Feldman* doctrine by clarifying that the *Rooker-Feldman* "doctrine is confined to cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the federal district court proceedings commenced and inviting district court review and rejection of those judgments; the *Rooker-Feldman* doctrine does not otherwise override or supplant preclusion doctrine or augment doctrines that allow federal courts to stay or dismiss proceedings in deference to state court actions."[39]

More importantly, the Court did not once mention that the inextricably intertwined verbiage is a factor when analyzing cases under *Rooker-Feldman*.[40] Therefore, the inextricably intertwined verbiage should not be used to analyze subsequent cases any longer in this jurisdiction.

Instead, a court should continue applying the standard that emerged from the *Exxon Mobil* decision.[41] Judge Sykes explains it very well, commenting that "rather than asking if the plaintiff seeks a result that conflicts with or undermines a judgement in parallel state litigation, Exxon directs our attention to the source of the plaintiffs'

[36] *Id.*

[37] *Id.* at 954.

[38] *Id.*

[39] Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280 (2005).

[40] *Id.* at 291–94.

[41] *See Exxon Mobil*, 544 U.S. at 292.

injuries.[42] If the plaintiff complains of an independent prior injury caused outside the judicial process—including by other branches of government—then *Rooker-Feldman* does not apply; instead, preclusion doctrine comes into play."[43]

One crucial detail worth noting is that during the Seventh Circuit oral argument in *Andrade*, counsel for the city of Hammond, the adversaries to the landlord in *Andrade*, furiously rejected Judge Sykes' interpretation of *Exxon Mobil* and noted that the Supreme Court did not reject the inextricably intertwined verbiage. The Seventh Circuit judges furiously rejected this argument in their opinion. Once more as Judge Sykes notes, "that language is conspicuously absent from *Exxon Mobil*."[44] Although there is a possibility that the Supreme Court might one day agree with the Defendant by allowing the inextricably intertwined verbiage to stand, until that happens litigants should remember to follow the precedent left by *Exxon Mobil*.[45]

There is additional support for the argument that the inextricably intertwined verbiage should be abandoned. Other courts around the United States have also agreed that the verbiage was not considered during the *Exxon Mobil* decision. For example, On August 12, 2021, the Court of Appeals for the Eleventh Circuit revived a child custody case that had already been tossed out on *Rooker-Feldman* grounds. That court stated that the *Rooker-Feldman* doctrine has been applied too broadly and that its "era of expansion is over."[46] Additionally, the court commented that, "though the Supreme Court has stepped in to restore the doctrine to its original boundaries, courts have continued to apply *Rooker-Feldman* as a one-size-fits-all preclusion doctrine for a vast array of claims relating to state court litigation." The court reasoned that since the plaintiff was not trying to

[42] Andrade v. Hammond, Indiana, 9 F.4th 947, 952 (7th Cir. 2021).

[43] *Id.*

[44] Oral Argument at 15:00, Andrade v. Hammond, Indiana, 9 F.4th 947, 948 (7th Cir. 2021).

[45] *Id.*

[46] Matt Perez, 11th Circ. Says Rooker-Feldman Doctrine's 'Expansion is Over', LAW360, (Nov. 10, 2021, 5:23 PM), https://www.law360.com/articles/1412342.

overturn the child custody decision, but was instead seeking relief based on other claims, that the plaintiff did not invoke the use of *Rooker-Feldman*. Those claims involved violations related to procedural due process rights, discrimination based on age, and unreasonable search and seizure. Once again none of these claims sought to have the child custody judgement reversed. Most importantly was what the Eleventh Circuit had to say about the inextricably intertwined verbiage; the court commented that the inextricably intertwined verbiage was a huge reason that the *Rooker-Feldman* doctrine was used too broadly in the past, but that the *Exxon Mobil* decision has cleared up that confusion.

Even before that, the Court of Appeals for the Third Circuit had ruled similarly on limiting *Rooker-Feldman*. That court also reversed a decision and concluded that a bankruptcy court erred when concluding that the *Rooker-Feldman* doctrine barred review of fraudulent transfer claims. The appeal focused on Sections 544 and 548 of the Bankruptcy Code, but instead of ruling on the merits, the court ended up addressing whether *Rooker-Feldman* was properly applied to bar the action from proceeding. The court's analysis focused on whether the plaintiff had invited the federal court to review and reject the state court judgement. More importantly the Third Circuit commented that the U.S. Supreme Court has cautioned against applying *Rooker-Feldman* too broadly. The doctrine is confined to "limited circumstances" where "state court losers complain[ ] of injuries caused by state-court judgements rendered before the district court proceedings commenced and inviting district court review and rejection of those judgements."[47]

Additionally, the clarification that Judge Sykes provides in *Andrade* is important because it helps separate the preclusion doctrine from the *Rooker-Feldman* doctrine—exactly what the legal community has struggled with for decades.[48] It is one thing to

[47] Steven Wilamsky & Sara Ghadiri, *3rd Circ. Confirms Limits of The Rooker-Feldman Doctrine*, LAW360, (Nov. 12, 2021, 3:10 PM), https://www.law360.com/articles/1004470/3rd-circ-confirms-limits-of-the-rooker-feldman-doctrine.

[48] *Andrade* at 952.

perpetuate widespread use of a confusing test that is not clearly articulated—i.e., the inextricably intertwined test—but it is another thing to confuse two separate legal doctrines. Although both legal concepts have their own distinct analyses and reasons to be used in court, differentiating preclusion and *Rooker-Feldman* principles has proven to be quite difficult for many in the legal profession.[49]

Specifically, this problem originates from confusing both "issue" and "claim" preclusion with the *Rooker-Feldman* Doctrine. The Legal Information Institute describes claim preclusion, also known as *res judicata*, as "the principle that a cause of action may not be relitigated once it has been judged on the merits."[50] Whereas it defines issue preclusion, also known as collateral estoppel, as a "valid and final judgment [that] binds the plaintiff, defendant, and their privies in subsequent actions on different causes of action between them (or their privies) as to same issues actually litigated and essential to the judgment in the first action".[51]

Although both concepts seem similar, as they each determine whether claims or issues have already been litigated, the difference lies in how exactly they are used. *Rooker-Feldman* "is a narrow doctrine," and "does not otherwise override or supplant preclusion doctrine or augment doctrines that allow federal courts to stay or dismiss proceedings in deference to state court actions."[52]

Additionally, it is important to emphasize that even if a case passes the *Rooker-Feldman* analysis, that doesn't necessarily mean the case will always be given the green light to continue in court where it left off.[53] The court in *Exxon Mobil* stated that

[49] *Id.*

[50] LII / Legal Information Institute, *Res judicata*, (Nov. 10, 2021), https://www.law.cornell.edu/wex/res_judicata.

[51] LII / Legal Information Institute, *issue preclusion*, (Nov. 10, 2021), https://www.law.cornell.edu/wex/issue_preclusion.

[52] Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005).

[53] *See Exxon Mobil*, 544 U.S. at 293.

> "§ 1257 [does not] stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. If a federal plaintiff "present[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party ..., then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion."[54]

One way of summarizing the difference between the preclusion principles and *Rooker-Feldman* doctrine comes from *GASH Associates v. Village of Rosemont, Illinois*[55] The court in *GASH* stated that

> equating the *Rooker–Feldman* doctrine with preclusion is natural; both sets of principles define the respect one court owes to an earlier judgment. But the two are not coextensive. Preclusion in federal litigation following a judgment in state court depends on the Full Faith and Credit Statute, 28 U.S.C. § 1738, which requires the federal court to give the judgment the same effect as the rendering state would. When the state judgment would not preclude litigation in state court of an issue that turns out to be important to a federal case, the federal court may proceed; otherwise not.[56] The *Rooker–Feldman* doctrine, by contrast, has nothing to do with § 1738. It rests on the principle that district courts have only original jurisdiction; the full appellate jurisdiction over judgments of

[54] *Id.* at 293.

[55] GASH Assocs v. Village of Rosemont, 995 F.2d 726 (7th Cir. 1993) (*GASH* Associates involved a junior mortgagee who commenced a civil rights action against the village of Rosemont alleging that the village engaged in a "taking of GASH Associate's property. Judgement was entered and GASH Associates appealed. The Court of Appeals decided that the District Court was precluded from exercising jurisdiction since GASH Associates had no independent claim and was instead attacking the state court judgement).

> state courts in civil cases lies in the Supreme Court of the United States, and parties have only a short time to invoke that jurisdiction. The *Rooker–Feldman* doctrine asks: is the federal plaintiff seeking to set aside a state judgment, or does he present some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party? If the former, then the district court lacks jurisdiction; if the latter, then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion.[57]

Indeed, as Chief Judge Sykes of the Seventh Circuit Court of Appeals explains in *Andrade*, "the *Rooker-Feldman* jurisdictional bar is not founded in respect for state courts or other comity of federalism interests. It derives from silence in several jurisdictional statutes, most proximately 28 U.S.C. § 1257".[58]

After reviewing the information above, it is fair to say we are decently well-versed on the law of the case. The focus on becoming experts on the facts and record of the case follows in the next sections.[59]

The Case

Jose Andrade, a landlord of the city of Hammond, Indiana, has been litigating his case for the last 9 years.[60] The Seventh Circuit Court of Appeals recently sided with the small landlord in what appears to be a huge blow to the city of Hammond.[61] The case began in the spring of 2013 when the City of Hammond—more specifically,

[57] *Id.* at 728.

[58] *Andrade* at 951–52.

[59] *Id.*

[60] Dolan, B., *Landlord wins ruling against Hammond*, NWI Times. (Nov. 1, 2021), https://www.nwitimes.com/news/local/landlord-wins-ruling-against-hammond/article_2f5867a7-c086-5e3f-b43e-4b25109e4341.html.

[61] *Id.*

city employees—went to inspect Jose Andrade's commercial apartment for alleged safety violations. The employees later found that Jose Andrade was in violation of multiple city ordinances.[62] It is important to note that Jose Andrade was considered a Section 8 Housing landlord when he was cited. Section 8 housing is a form of subsidized housing for individuals who meet a certain threshold and who are assisted by the U.S. government in making payments to their landlords.[63]

After Jose Andrade was notified of the citation, he filed a state court action arguing that the city had "engaged in patterned course of action starting March 15, 2013 in a calculated effort to deny Andrade full use and benefit of his rental property."[64] Some examples that Andrade gave include how the city:

> (1) improperly labeled his rental property as uninhabitable; (2) attempted to enforce building codes which they had no authority to enforce; (3) threatened him with fines; (4) required unnecessary and inappropriate modifications to his property; (5) unlawfully enforced zoning ordinances and other regulations; (6) denied him his valid liberty interest in his property; (7) denied his tenants the right to federal housing choice vouchers; (8) maliciously prosecuted him; and (9) conducted administrative hearings without adequate notice or the opportunity to confront witnesses.

This state court action was then removed to the United States District Court for the Northern District of Indiana, Hammond Division.[65]

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[62] Andrade v. City of Hammond, 2:15-CV-134-TLS, 2020 WL 30227, at 1 (N.D. Ind. Jan. 2, 2020).

[63] Housing Choice Voucher Program Section 8, HUD.gov / U.S. Department of Housing and Urban Development (HUD), https://www.hud.gov/topics/housing_choice_voucher_program_section_8 (last visited Oct 8, 2021).

[64] *Andrade* at 1.

[65] *Id.* at 1–2.

Although Andrade's case remained pending in federal court, the state administrative proceedings for the violations continued, and on January 12, 2017, an evidentiary hearing was conducted regarding whether Andrade's rental property was in unsafe condition.[66] Two city employees, a building commissioner, and a former code enforcement commissioner, testified at length about the unsafe conditions.[67] The board hearing the proceedings eventually concluded that Andrade's property was unsafe, illegally constructed, and that it had to be restored back to a single-family home.[68] Andrade, furious with the decision, appealed that administrative decision to the Superior Court of Lake County, a state trial court. Andrade argued that (1) the board acted beyond its legal authority, (2) the property was originally built and zoned as a multi-family unit, and (3) the Defendants failed to comply with a subpoena.[69] Nonetheless, the trial court ended up siding with the city since those arguments were not central to the underlying issue of whether the property was an unsafe building, and since Andrade failed to demonstrate that the board's decision was unreasonable.[70] The trial court concluded that the board's findings were well supported by the record. Andrade, determined to have the trial court's decision reversed, appealed to the Indiana Court of Appeals arguing that:

> the board's actions violated the Takings Clause, (2) one of the board members acted improperly or acted from bias, (3) the board exceeded its statutory authority when it ordered him to restore the property to a single-family home, (4) the board's finding that the property was originally built as a single family residence was not supported by substantial evidence, and (5) the Defendants' failure to comply with a

[66] *Id.*
[67] *Id.*
[68] *Id.* at 3.
[69] *Id.* at 4.
[70] *Id.*

> subpoena required that the board's decision be reversed."[71] The Indiana Court of Appeals affirmed the trial court's order and dismissed the other arguments.[72] Andrade then petitioned to both the Indiana Supreme Court and the Supreme Court of the United States who both denied hearing the case.[73]

As noted earlier, Jose Andrade's complaint was still pending in the United States District Court for the Northern District of Indiana, Hammond. Defendants filed a motion for summary judgment arguing that (1) the *Rooker-Feldman* doctrine had divested the court of jurisdiction, and (2) the Plaintiff's claims were now barred by the doctrine of res judicata. The District Court agreed that *Rooker-Feldman* applied to the case and dismissed the suit.[74]

Putting the Pieces Together

The District Court for the Northern District of Indiana primarily relied on three cases when deciding that *Rooker-Feldman* barred federal review of *Andrade's* injury. The most important case the court relied on was *Swartz v. Heartland Equine Rescue*.[75] In *Swartz*, the Swartz' were owners of various farm animals.[76] After an investigation, an Indiana trial court determined that the Swartz' engaged in animal cruelty and thereafter issued an order to seize the animals while making the Swartz' pay for the fees for the animal shelter that would take care of their adoption.[77] Following the state proceedings, the Swartz' filed a federal lawsuit challenging the seizure

[71] *Id.* at 5.

[72] *Id.*

[73] *Id.*

[74] *Id.* at 20. (Specifically, the District Court said "plaintiff's allegations are barred by the doctrine of res judicata." And thereafter granted defendants' Motion for Summary Judgement.

[75] Swartz v. Heartland Equine Rescue, 940 F.3d 387 (7th Cir. 2019).

[76] *Id.*

[77] *Id.* at 389.

of their animals in violation of the Fourth and Fourteenth Amendments.[78] The district court ended up finding in favor of defendants based on *Rooker-Feldman.*[79] The court reasoned that because the injury for the federal lawsuit, the seizure and placement of the animals, came from several orders of a state trial court, their claims were inextricably intertwined with the state court judgements.[80]

On a superficial level, one could argue that *Andrade* is very similar to *Swartz*. In *Andrade*, the plaintiff's property was inspected, the administrative agency reviewed the evidence and made determinations, and the judicial system agreed with those determinations. The difference between these cases is the fact that the injury Andrade alleged took place before there was any judicial involvement. Reminding ourselves of Judge Sykes's words, "ultimately, the determination hinges on whether the federal claim alleges that the injury was caused by the state court judgment, or alternatively, whether the federal claim alleges an independent prior injury that the state court failed to remedy.'"[81] Here, Andrade complained of an independent prior injury while Swartz complained of an injury that stemmed from a judicial decision, the order to capture the animals.

Next Steps for Jose Andrade

Andrade provides precedent to many landlords since it will allow future landlords the right to bring forward injuries which were never remedied and that were caused by administrative branches of government. Once again, these injuries must be independent of state court judgement, but if they are, then a party will not be barred by *Rooker-Feldman* in having a federal court review the injury.[82] Although Jose Andrade prevailed at the Seventh Circuit, the reality is

[78] *Id.*

[79] *Id.* at 394.

[80] *Id.*

[81] Andrade v. Hammond, Indiana, 9 F.4th 947, 948 (7th Cir. 2021).

that Andrade still must get through the preclusion barrier. It is most likely that the preclusion principles will dictate whether the case will continue or whether it will be barred proceeding. Additionally, the federal district court will now be able to analyze Andrade's claim that his due process rights were violated by the board, and whether that's a sufficient basis for the lawsuit to continue. Andrade's attorney commented on the matter also stating that "Mr. Andrade and I fully expect other efforts to derail a trial by the mayor and the city, but we remain confident we will prevail on all counts."[83] On the contrary, Hammond Mayor Thomas McDermott, Jr. has stated that it is a top priority for his administration to protect and eliminate unsafe apartments what were created illegally out of single-family homes.[84]

Conclusion

To conclude, in Judge Sykes' words, "it's worth reiterating, then, what the [*Rooker-Feldman*] doctrine is (and isn't)."[85] Although the legal community continues to struggle with properly applying *Rooker-Feldman* at times, it still holds to be an important doctrine in the litigation world. Sykes reminds us of the correct approach that lawyers and judges should take when analyzing *Rooker-Feldman* primarily by sticking to its precedent in *Exxon Mobil*. As for the inextricably intertwined language, it may be best that the legal community let the phrase die out because "that small change could go a long way toward correcting the lingering misconceptions about *Rooker–Feldman*'s reach."[86]

[83] Dan Carden, Landlord gets another change to challenge order to remove apartments from single-family dwelling, NWI TIMES (Nov. 20, 2021, 11:08 AM), https://www.nwitimes.com/news/local/lake/hammond/landlord-gets-another-chance-to-challenge-order-to-remove-apartments-from-single-family-dwelling/article_f82f5b42-e85e-5054-999c-368e8eebafe0.html.

[84] *See* Carden, *supra* note 84.

[85] *Id.* at 954.

[86] *Id.*