2022 WL 1195655
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United States Court of Appeals, Eleventh Circuit.

Bronwyn **RANDEL**, Plaintiff-Appellant,
v.
RABUN COUNTY SCHOOL DISTRICT,
Defendant-Appellee.

No. 21-12760
|
Non-Argument Calendar
|
Filed: 04/22/2022

Appeal from the United States District Court for the Northern District of Georgia, D.C. Docket No. 2:20-cv-00268-RWS

Attorneys and Law Firms

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Brian C. Smith, Harben Hartley & Hawkins, LLP, Gainesville, GA, for Defendant-Appellee.

Before ROSENBAUM, LUCK and DUBINA, Circuit Judges.

Opinion

PER CURIAM:

Appellant Bronwyn Randel appeals the district court's order dismissing her federal claim against her former employer, the Rabun County School District, arising from the Rabun County Board of Education's ("the board") decision not to renew her employment contract. Randel argues that the board violated her due process rights under 42 U.S.C. § 1983 by failing to provide her with a neutral arbiter at the non-renewal proceedings. She also asserts that the state's damages are insufficient because she could be unable to recover attorney's fees if she succeeds on her due process claim. Randel contends that, in *Knick v. Township of Scott*, ___ U.S. ___, 139 S. Ct. 2162, 204 L.Ed.2d 558 (2019), the Supreme Court essentially overturned our precedent in *McKinney v. Pate*, 20 F.3d 1550 (11th Cir. 1994) (*en banc*), and *Cotton v. Jackson*, 216 F. 3d 1328 (11th Cir. 2000), and now she can state a due process claim. She also argues that the recent decision of the Georgia Court of Appeals in her ongoing state litigation collaterally estops the board from arguing that it did not violate her due process rights. Having read the parties' briefs and reviewed the record, we affirm the district court's order dismissing Randel's complaint.

I.

We review *de novo* a district court's dismissal of a complaint for failure to state a claim. *Chua v. Ekonomou*, 1 F.4th 948, 952 (11th Cir. 2021). We also

review *de novo* a district court's conclusions on collateral estoppel. *Richardson v. Miller*, 101 F.3d 665, 667-68 (11th Cir. 1996). Collateral estoppel rules fully apply to § 1983 actions. *Brown v. City of Hialeah*, 30 F.3d 1433, 1437 (11th Cir. 1994).

Sitting as a panel, we cannot overturn one of our *en banc* decisions. *Amodeo v. FCC Coleman*, 984 F.3d 992, 1002 (11th Cir. 2021). The prior panel precedent rule requires us to follow a prior binding precedent unless and until it is overruled by the Supreme Court or our court *en banc. EEOC v. Excel, Inc.*, 884 F.3d 1326, 1332 (11th Cir. 2018). The prior panel precedent rule applies even if the prior precedent is arguably flawed. *See United States v. Golden*, 854 F.3d 1256, 1257 (11th Cir. 2017). A "Supreme Court decision must be clearly on point" to overrule one of our prior panel's decisions. *Garrett v. Univ. of Ala. at Birmingham Bd. of Trs.*, 344 F.3d 1288, 1292 (11th Cir. 2003). Additionally, the Supreme Court decision must "actually abrogate or directly conflict with, as opposed to merely weaken, the holding of the prior panel." *United States v. Kaley*, 579 F.3d 1246, 1255 (11th Cir. 2009).

Federal Rule of Civil Procedure 12(b)(6) permits defendants to move a district court to dismiss a case because the complaint "fail[s] to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). In reviewing the grant of a Rule 12(b)(6) motion, we are "guided by the same principles of review as the district court" and view the complaint in the light most favorable to the plaintiff, accepting the complaint's well-pleaded facts as true. *Am. United Life Ins. Co. v.*

Martinez, 480 F.3d 1043, 1057 (11th Cir. 2007). To survive a motion to dismiss, a complaint must contain sufficient facts that, if true, state a facially plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L.Ed.2d 868 (2009). A claim is facially plausible if it creates a "reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

II.

There are three elements to a § 1983 procedural due process claim: "(1) a deprivation of a constitutionally-protected . . . property interest; (2) state action; and (3) constitutionally-inadequate process." *Spencer v. Benison*, 5 F.4th 1222, 1232 (11th Cir. 2021) (quotation marks omitted) (alteration in original). The process that a state provides is both that employed by the government entity whose action is in question and the remedial process that state courts would provide if asked. *Horton v. Bd. of Cnty. Comm'rs*, 202 F.3d 1297, 1300 (11th Cir. 2000).

In *McKinney*, we held that, "[w]hen a state procedure is inadequate," the state does not violate the plaintiff's due process right "unless and until the state fails to remedy that inadequacy." 20 F.3d at 1560. The plaintiff's need to seek state remedies is a requirement to state a procedural due process claim. *Cotton*, 216 F.3d at 1331, 1331 n.2. To provide an adequate remedy for an alleged procedural due process violation, a state need not provide all the relief that could be available in a § 1983 claim if it could have compensated the

plaintiff for her property losses. *Id.* at 1331; *McKinney*, 20 F.3d at 1564. Rather, "the state procedure must be able to correct whatever deficiencies exist and to provide plaintiff with whatever process is due." *Cotton*, 216 F.3d at 1331.

In *Cotton*, we stated that, even if the plaintiff has no specific legal remedy, the ability to seek a writ of mandamus in the state supreme court may be a sufficient remedy to a local government's alleged procedural due process violation. *Cotton*, 216 F.3d at 1332; *see also Doe v. Valencia Coll.*, 903 F.3d 1220, 1234-35 (11th Cir. 2018) (affirming summary judgment entered against a defendant who could have petitioned for a writ of *certiorari* with the state supreme court regarding his expulsion from college). We determined that, even though the plaintiff sought a hearing to clear his name from the state's damage to his reputation, the mere possibility that the state supreme court could have issued a writ of mandamus in his favor was a sufficient process. *Cotton*, 216 F.3d at 1331-33; *see also Club Madonna, Inc. v. City. of Miami Beach*, 924 F.3d 1370, 1378-79 (11th Cir. 2019) (holding that the plaintiff had sufficient procedural due process because, after the city suspended its business license, local law entitled the plaintiff to an emergency hearing before a special master and an appeal of that decision to the state trial court).

In the employment context, we have determined that, when a former state employee alleged that the decisionmaker at his pre-termination hearing was

biased, the state system provided a sufficient procedural process for him to redress that error because he could appeal his termination to the superior court of the proper county. *Narey v. Dean*, 32 F.3d 1521, 1527-28 (11th Cir. 1994). We noted that the possibility to recover back pay and reinstatement to the former position provided adequate post-deprivation remedies for improperly terminated employees. *Id.* at 1528.

Under Georgia law, a hearing to address a teacher's firing "shall be conducted before the local board, or the local board may designate a tribunal to consist of not less than three nor more than five impartial persons possessing academic expertise to conduct the hearing and submit its findings and recommendations to the local board for its decision thereon." O.C.G.A. § 20-2-940(e)(1). After the local board issues its decision, the party aggrieved by that decision may appeal it to the State Board of Education. *Id.* § 20-2-1160(b). After the state board issues its decision, the aggrieved party may appeal to the superior court in the same county as the local board. *Id.* § 20-2-1160(c). However, "[n]either the state board nor the superior court shall . . . consider the matter de novo, and the review by the state board or the superior court shall be confined to the record." *Id.* § 20-2-1160(e).

III.

As an initial matter, we note that binding precedent forecloses Randel's argument that *McKinney* and

Cotton were wrongly decided because she is unable to show that *Knick* overruled either case. In the absence of such a showing, we are bound by our prior precedent.

We conclude from the record that the district court properly granted the board's motion to dismiss. Although the state supreme court denied Randel's petition for writ of *certiorari*, *see Rabun Cnty. Bd. Of Educ. v. Randel*, S.E.2d 160 (Ga. Ct. App. 2021), *cert. denied*, Case No. S22C0268 (Ga. March 22, 2022), she still does not present a due process violation. The state court system's willingness to review a claim of a biased state employment decisionmaker is sufficient process for such a claim, and both a state trial court and the state court of appeals have heard her claims. She has not stated a due process violation for failure to provide sufficient damages because we have stated that back wages and reinstatement can be sufficient damages. *See Narey*, 32 F.3d at 1528. The state need not provide all the compensation that would be available under § 1983 if it was capable of remedying "whatever deficiencies exist" and providing her "with whatever process is due." *See Cotton*, 216 F.3d at 1331. Because we conclude that the state did not entirely fail to provide Randel with a process to challenge her nonrenewal of employment, the district court properly granted the state's motion to dismiss. Based on the

aforementioned reasons, we affirm the district court's order dismissing Randel's complaint.[1]

AFFIRMED.

[1] We decline to address the issue of collateral estoppel even though Randel is not estopped from arguing that the state's failure to appoint a tribunal to hear her claim violated her right to due process because we conclude on the merits that Randel does not state a federal due process violation. Randel contends that the state court of appeals concluded that there was no due process violation because state law did not require the appointment of a tribunal but it also explicitly found that no due process violation occurred on the facts of this case. The state did not entirely fail to provide her a process for review of her non-renewal of her employment contract, and we have stated previously that Georgia's procedures are sufficient for a former employee who alleges that she was terminated by a biased government agency. *See Cotton*, 216 F.3d at 1331.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA GAINESVILLE DIVISION

BRONWYN RANDEL, Plaintiff, v. RABUN COUNTY SCHOOL DISTRICT, Defendant.	Civil Action No. 2:20-cv-00268-RWS

ORDER

(Filed Jul. 13, 2021)

This case comes before the Court on Defendant Rabun County School District's Motions to Dismiss [8 &15]. After reviewing the record, the Court enters the following Order.

Background

This case arises from a dispute over a school district's non-renewal of a longtime teacher's employment contract.

Plaintiff Bronwyn Randel began working as a teacher for Defendant Rabun County School District in 2000. (Pl.'s First Am. Compl., Dkt. [12], at ¶ 6.) In the 2017-2018 school year, she perceived that school administrators had become overly critical of her. (Id. at ¶ 11–13.) As a result, in April 2018, she filed a charge of discrimination with the Equal Employment

Opportunity Commission ("EEOC"). (Id. at ¶ 14.) Then, in May 2018, the Superintendent recommended that Ms. Randel's employment contract not be renewed. (Id. at ¶ 16.) Following that recommendation, Ms. Randel filed a supplemental charge of discrimination with the EEOC. (Id. at ¶ 17.)

In the fall of 2018, the Rabun County Board of Education held a hearing on the Superintendent's non-renewal recommendation under the Fair Dismissal Act of Georgia, O.C.G.A. § 20-2-840, *et seq*. (Id. at ¶¶ 19, 30, 34, 38–46.) Before the hearing, Ms. Randel filed a motion asking the County Board of Education to appoint an impartial tribunal to oversee the hearing, arguing that the County Board of Education itself could not be an impartial arbiter. (Id. at ¶¶ 31, 33.) The County Board of Education denied her motion. (Id. at ¶ 34.) After a full-day hearing, the County Board of Education upheld the Superintendent's recommendation by voting not to renew Ms. Randel's employment contract. (Id. at ¶¶ 6.)

Ms. Randel appealed the non-renewal decision to the State Board of Education, which affirmed the decision. (Id. at ¶¶ 47–48.) She then appealed the non-renewal to the Superior Court of Rabun County. (Id. at ¶ 49.) The Superior Court reversed the decisions of the County and State Boards of Education, holding that the County Board of Education violated Ms. Randel's procedural due process rights by failing to appoint an impartial tribunal for her non-renewal hearing. (Id. at ¶ 50.) Defendant appealed the Superior Court's

reversal, and that appeal is currently pending in the Georgia Court of Appeals. (Id. at ¶ 66.)

Ms. Randel then filed this case [1], asserting claims for violation of her federal and state procedural due process rights. Defendant moved to dismiss Ms. Randel's complaint [8], after which she amended her complaint [12] [1]. Ms. Randel's amended complaint again asserts claims for violation of her federal and state procedural due process rights, and she seeks declaratory and injunctive relief and monetary damages for the alleged violations. Defendant moved to dismiss [15] Ms. Randel's amended complaint under Federal Rule of Civil Procedure 12(b)(6). Ms. Randel opposes Defendant's motion to dismiss [18], and Defendant filed a reply in support of its motion [19].

Discussion

I. Legal Standard

Federal Rule 8 requires that a complaint contain a "short and plain statement of the claim showing that the pleader is entitled to relief." While this standard does not require "detailed factual allegations," neither will mere "labels and conclusions" suffice. Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). Instead, the complaint "must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

[1] Defendant's Motion Dismiss [8] is due to be denied as moot because Ms. Randel filed an Amended Complaint [12] within 21 days of the filing of the motion.

A claim to relief is "plausible on its face" when the facts support a "reasonable inference that the defendant is liable for the misconduct alleged." Id.; Gates v. Khokhar, 884 F.3d 1290, 1296 (11th Cir. 2018).

When a party challenges a complaint under Rule 12(b)(6) for failure to state a claim upon which relief can be granted, the Court must "accept the facts alleged in the complaint as true, drawing all reasonable inferences in the plaintiff's favor." Gates, 884 F.3d at 1296. However, the Court ignores legal conclusions or factual contentions masquerading as legal conclusions. Iqbal, 556 U.S. at 678. If the complainant has stated facts that plausibly support relief, the claim survives the motion and proceeds. If not, it ends.

II. Analysis

Defendant moves to dismiss Ms. Randel's amended complaint for two reasons. (Def.'s Br. in Supp. of Mot. to Dismiss, Dkt. [15-1], at 2–3, 6–13.) First, it argues that Ms. Randel's federal procedural due process claim should be dismissed because she has adequate state law remedies that are available and afford her due process. (Id. at 2–3, 6–10.) Second, Defendant argues that Ms. Randel's state procedural due process claim is barred by the doctrine of sovereign immunity. (Id. at 3, 10–13.) The Court will consider each of these arguments in turn. In addition, the Court will briefly address several of Ms. Randel's separate arguments opposing Defendant's motion to dismiss.

A. Ms. Randel's Federal Procedural Due Process Claim

Ms. Randel asserts a federal procedural due process claim against Defendant, alleging that Defendant violated her procedural due process rights under the Fourteenth Amendment and that she is entitled to damages under 42 U.S.C. § 1983. (Pl.'s First Am. Compl., Dkt [12], at ¶¶ 69–71.) Defendant moves to dismiss this claim, arguing that Ms. Randel is precluded from bringing a federal procedural due process claim because she has adequate state law remedies available. (Def.'s Br. in Supp. of Mot. to Dismiss, Dkt. [15-1], at 2–3, 6–10.) Ms. Randel disputes Defendant's position, arguing that her available state law remedies are inadequate because they do not entitle her to recover attorneys' fees or other compensatory damages, as she may be able to do through her federal procedural due process claim. (Pl.'s Resp. in Opp. to Def.'s Mot. to Dismiss, Dkt. [18], at 7–17.)

To state a federal procedural due process claim under § 1983, an individual must show that "the state refuse[d] to provide a process sufficient to remedy the procedural deprivation." McKinney v. Pate, 20 F.3d 1550, 1557 (11th Cir. 1994). In other words, "[i]t is the state's failure to provide adequate procedures to remedy the otherwise procedurally flawed deprivation of a protected interest that gives rise to a federal procedural due process claim." Cotton v. Jackson, 216 F.3d 1328, 1331 (11th Cir. 2000) (per curiam) (citations omitted). Accordingly, "[a]ssuming a plaintiff has shown a deprivation of some right protected by the due process

clause," the court "look[s] to whether the available state procedures were adequate to correct the alleged procedural deficiencies." Id. (citations omitted). And "[i]f adequate state remedies were available but the plaintiff failed to take advantage of them, the plaintiff cannot rely on that failure to claim that the state deprived him of procedural due process." Id. (citations omitted). Further, for an available state law remedy to be adequate, the remedy "need not provide all the relief available under section 1983"; rather, it simply "must be able to correct whatever deficiencies exist and to provide plaintiff with whatever process is due." Id. (citation omitted); see also McKinney, 20 F.3d at 1564 ("as long as the remedy could have fully compensated the employee for the property loss he suffered, the remedy satisfies procedural due process.") (citation and quotations omitted).

Several state law remedies were available to Ms. Randel which provided sufficient due process for the alleged deprivations she suffered in this case. First, Georgia's Fair Dismissal Act entitled her to a hearing with the County Board of Education regarding the Superintendent's recommendation not to renew her employment contract. O.C.G.A. § 20-2-1160(a). Second, if she disputed the County Board of Education's decision or the procedures it employed in reaching its decision, the Act then allowed her to appeal to the State Board of Education and the Superior Court. O.C.G.A. § 20-2-1160(b)-(c). Finally, she could then appeal the Superior Court's judgment to the Georgia Court of Appeals. O.C.G.A. § 5-6-35(a)(1). Ms. Randel in fact took

advantage of these remedies and obtained a judgment reversing the non-renewal of her employment contract in the Superior Court of Rabun County. (Pl.'s First Am. Compl., Dkt. [12], at ¶¶ 49–50.)

Ms. Randel nevertheless contends that these available state law remedies are inadequate and do not sufficiently redress her alleged deprivations of procedural due process since they do not entitle her to recover attorney's fees or compensatory damages, as a federal procedural due process claim might. (Pl.'s Resp. in Opp. to Def.'s Mot. to Dismiss, Dkt. [18], at 13–17.) The Court finds this argument unpersuasive. Again, the Eleventh Circuit has held that "the state's remedial procedure[s] need not provide all relief available under section 1983," so long as the remedy or remedies "could have fully compensated the employee for the property loss he suffered." McKinney, 20 F.3d at 1564 (citation, punctuation, and quotations omitted). Moreover, courts have consistently held that review by Georgia state courts of employment termination decisions is "generally an adequate state remedy." Cotton, 216 F.3d at 1331 (citations omitted); see also Narey v. Dean, 32 F.3d 1521, 1527–28 (11th Cir. 1994) (review by Georgia courts of state agency's employment decisions is generally an adequate remedy).

Accordingly, the Court finds that "there are adequate state law remedies available that afford [Ms. Randel] sufficient due process," Setchel v. Hart Cnty. Sch. Dist., 2009 WL 3757464, at *4 (M.D. Ga. Nov. 6, 2009), and therefore Defendant's motion to dismiss

Ms. Randel's federal procedural due process claim is **GRANTED**.

B. Ms. Randel's State Law Procedural Due Process Claim

Ms. Randel also brings a state procedural due process claim against Defendant, arguing that Defendant violated her procedural due process rights under the Georgia Constitution and that she is entitled to damages under O.C.G.A. § 51-1-6 and 51-1-8. (Pl.'s First Am. Compl., Dkt. [12], at ¶¶ 73–75.) Defendant moves to dismiss this claim, arguing that Ms. Randel's state procedural due process claim is barred by the doctrine of sovereign immunity. (Def.'s Br. in Supp. of Mot. to Dismiss, Dkt. [15-1], at 3, 10–13.)

"The constitutional doctrine of sovereign immunity bars any suit against the State to which it has not given its consent, including suits against state departments, agencies, and officers in their official capacities." Lathrop v. Deal, 801 S.E.2d 867, 892 (Ga. 2017). "Like the counties within which they are created, such [county] school districts are political subdivisions of the state entitled to the sovereign immunity extended to the state." See Coffee Cnty. Sch. Dist. v. Snipes, 454 S.E.2d 149, 150 (Ga. Ct. App. 1995) (citations omitted). The protection "can only be waived by an Act of the General Assembly which specifically provides that sovereign immunity is thereby waived and the extent of such waiver." Ga. Const., Art. I, Sec. II, Par. IX(e). "[I]mplied waivers of governmental immunity should

not be favored." Currid v. DeKalb State Court Prob. Dep't, 674 S.E.2d 894, 896–97 (Ga. 2009) (citations and quotations omitted).

Here, as a county school district, Defendant is clearly entitled to the protection of sovereign immunity. Therefore, Ms. Randel can only bring her state procedural due process claim against Defendant if the General Assembly has waived that immunity. Ms. Randel points to a 2020 amendment to the Georgia Constitution that she contends "waiv[es] the State's sovereign immunity so as to allow citizens to seek declaratory relief from actions that violate the State Constitution." (Pl.'s Resp. in Opp'n to Def.'s Mot. to Dismiss, Dkt. [18], at 18.) Even if the amendment were otherwise applicable here, a proposition over which the Court expresses no opinion, it does not apply retroactively. Rather, its waiver of sovereign immunity specifically "appl[ies] to past, current, and prospective acts which occur on or after January 1, 2021." Ga. Const., Art. I, Sec. II, Par. V(b)(1). Because the actions at issue here took place in 2018 and 2019, the waiver does not apply.

Accordingly, Defendant's motion to dismiss Ms. Randel's state procedural due process claim is **GRANTED**.

C. Ms. Randel's Res Judicata, Collateral Estoppel, and Rooker-Feldman Arguments

Finally, Ms. Randel argues that Defendant's motion to dismiss is somehow flawed because the doctrines of

res judicata and collateral estoppel bar the re-litigation of her procedural due process claims, and the Rooker-Feldman doctrine prohibits Defendant from challenging the Superior Court's ruling in this Court. (Pl.'s Resp. in Opp. to Def.'s Mot. to Dismiss, Dkt. [18], at 6–7.) The Court will briefly explain why none of these doctrines are applicable here.

First, "[r]es judicata bars the *filing* of claims which were raised or could have been raised in an earlier proceeding." Butler v. First Fin. Inv. Fund Holdings, LLC, 2021 WL 2518239, at *3 (N.D. Ga. Apr. 7, 2021) (citing Ragsdale v. Rubbermaid, Inc., 193 F.3d 1235, 1238 (11th Cir. 1999)) (emphasis supplied). It is an affirmative defense that "seeks to bar a *plaintiff* from relitigating the same cause of action against the same *defendant*." Id. (citing Akanthos Capital Mgmt., LLC v. Atlanticus Holdings Corp., 734 F.3d 1269, 1271 (11th Cir. 2013)) (emphasis supplied). The defense therefore must be raised by a defendant, as it only restricts the party bringing the claim. Defendant has not brought any claims against Ms. Randel, so she cannot invoke the doctrine of res judicata here.

Second, and similarly, collateral estoppel is an affirmative defense that "precludes the relitigation of an issue that has already been litigated and resolved in a prior proceeding." Annen v. Bank of Am., 2016 WL 11569314, at *3 (N.D. Ga. Nov. 25, 2016) (citations and quotations omitted). Ms. Randel appears to think this doctrine applies because Defendant may try to argue that it did not violate Dr. Randel's procedural due process rights, as it apparently argued in her Superior

Court case. (Pl.'s Resp. in Opp. to Def.'s Mot. to Dismiss, Dkt. [18], at 6.) But her position fails. Again, she cannot assert an affirmative defense when Defendant has not brought any claims against her. In addition, Defendant's motion to dismiss does not focus on the substance of its alleged violation of Ms. Randel's due process rights; rather, it simply argues that Ms. Randel's claims are barred by sovereign immunity and because she has adequate state law remedies. As a result, the doctrine of collateral estoppel is irrelevant.

Finally, under the Rooker-Feldman doctrine, "federal district courts lack subject matter jurisdiction over an action brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejected of those judgment." Goodrich v. Federal Home Loan Mortgage Corp., 2021 WL 2557509, at *6 (N.D. Ga. Jan. 5, 2021) (citation and quotations omitted). The reasoning behind the doctrine is that "a United States District Court has no authority to review final judgments of a state court in judicial proceedings." Id. (citations and quotations omitted); see also Universal Physician Servs., LLC v. Del Zotto, 842 Fed. App'x 350, 354 (11th Cir. 2021) ("[t]the [ ] doctrine is a narrow doctrine that only applies to an attempt to appeal a state court judgment.") (citation and quotations omitted). There are several dispositive issues with Ms. Randel's attempt to invoke this doctrine here, including that the "state-court loser," Defendant, did not bring this case, and this case is not an appeal of or dispute about a state

court judgment. Accordingly, the Rooker-Feldman doctrine is inapplicable.

Conclusion

For the foregoing reasons, Defendant Rabun County School District's Motion to Dismiss [8] is **DENIED** as moot. In addition, Defendant's Motion to Dismiss [15] is **GRANTED**. The Clerk is **DIRECTED** to enter **FINAL JUDGMENT** in favor of Defendant and to **CLOSE** the case.

SO ORDERED this 13th day of July, 2021.

/s/ Richard W. Story
RICHARD W. STORY
United States District Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-12760-JJ

BRONWYN RANDEL,

Plaintiff - Appellant,

versus

RABUN COUNTY SCHOOL DISTRICT,

Defendant - Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

(Filed Jun. 23, 2022)

BEFORE: ROSENBAUM, LUCK and DUBINA, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also

treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP2)

ORD-42