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U.S. ex. rel. Prince v. Virginia Resources Authority

United States District Court, W.D. Virginia, Harrisonburg Division - April 15, 2014 - Slip Copy - 2014 WL 1463786

Although short on details, this case appears to be the final phase of a long-running crusade by Mr. Prince to challenge the funding of public projects by or behalf of Shenandoah County.

After filing, and losing, four state court suits against the Virginia Resources Authority (VRA) challenging the legality of certain bonds issued under the Build America Bonds (BAB) program, Prince brought this action in federal court alleging that VRA and others violated the False Claims Act (FCA) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval related to federal subsidies and tax exempt status for certain bonds through the BAB program. Prince asserted that the bonds were issued in violation of Article VII of the Virginia Constitution and that the defendants falsely claimed that the bonds were legally issued in the course of participating in the BAB program.

The District Court held that the *Rooker-Feldman* doctrine was inapplicable to this case, but that the matter was governed by Virginia preclusion law. Because the critical legal issue—the legality of the bonds issued by VRA and others—had already been decided in previous litigation between Prince and VRA, Prince's claims were barred by issue preclusion, also known as collateral estoppel.

Prince had named four other defendants: the Shenandoah County Board of Supervisors, U.S. Bank National Association, Suntrust Bank, and SunTrust Equipment Finance & Leasing Corporation. None of these defendants, however, had been served.

The court took the unusual step of stopping any further actions in its tracks. "Finally, nothing but dismissal with prejudice will prevent the harm posed by re-litigating of legal issues that have already been decided. In light of the foregoing, the court finds that it is appropriate to invoke its inherent authority to dismiss with prejudice for lack of prosecution."

"In sum, Prince has had ample opportunity to litigate the legal issues underlying this case. His attempt to litigate against VRA yet again in this federal forum is barred by issue preclusion. Likewise, the court will not allow Prince yet another bit at the apple by finally serving the remaining defendants, or by filing a new a suit against them making the same claims. Prince cannot use a tactic of delayed service as a means for further re-litigation. The court will accordingly dismiss VRA as a defendant and dismiss the remainder of the case with prejudice for failure to prosecute."

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