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RES JUDICATA:

CALIFORNIA v. SIMS

Alan Saltzman, Esq.*

The California Supreme Court recently issued an opinion (People v. Sims, Sept. 27, 1982, 186 C.R. 77, 32 Cal. 3d, 468) which creates a new defense — in the doctrine of collateral estoppel that bars the prosecution from relitigating in criminal proceedings factual issues that were previously resolved in administrative hearings.

This is the first case in which administrative determination of factual issues has been held to bar a subsequent criminal prosecution.

The ruling is very significant, as there are many administrative bodies which in the course of their ordinary duties frequently pass on factual disputes concerning conduct that may also be the subject of a criminal prosecution. For example, professional licensing boards, prison disciplinary panels, local school boards, labor relations boards, and the alcoholic beverage commission may all determine, for their own specialized purposes, whether or not an individual committed misconduct.

Facts of the Case

The defendant was receiving welfare from Sonoma County. The county claimed that she had improperly received aid based on her falsely stating that the children's stepfather was not living at home with the defendant. The county made a demand for restitution. In order to avoid paying restitution, defendant demanded an administrative hearing before a hearing officer of the Welfare Department.

Prior to that hearing, a criminal complaint had been filed against the defendant based on the same alleged fraud.

The Welfare Department hearing was held before the criminal trial. At that hearing, the hearing officer concluded that the county had failed to meet its burden of proving that the defendant had fraudulently obtained welfare benefits. The county did not appeal that ruling.

Thereafter, the defendant moved to dismiss the criminal charges pending against her in the Superior Court. The Superior Court dismissed the criminal case and the California Supreme Court affirmed the dismissal.

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The Supreme Court focused on whether the administrative hearing exonerating the defendant of welfare fraud collaterally estopped the prosecutor from pursuing a criminal action against the defendant for the same misconduct.

Collateral estoppel precludes a party to an action from relitigating in a second proceeding matters litigated and determined in a prior proceeding.

A classic example was Teitelbaum Furs v. Dominion Insurance, 58 Cal.2d 601. In that case the owner of a fur shop was convicted of attempted grand theft and filing a false insurance claim with respect to a purported robbery. After his conviction he filed a civil suit against the insurance company to recover for his claimed loss. Finding that the issue decided against Teitelbaum in the criminal action was identical to the issue in the civil case, the California Supreme Court held that collateral estoppel prevented Teitelbaum from relitigating the cause of his loss and the insurance company prevailed.

People v. Sims, however, is significantly different for two reasons. In Sims it was an administrative proceeding with relaxed rules of evidence which was barring a subsequent judicial proceeding.

Additionally, the less difficult case to prove is controlling the more difficult case to prove. Thus, in administrative proceedings the burden of proof is "by a preponderance of the evidence" whereas in criminal cases it is "beyond a reasonable doubt."

In determining whether collateral estoppel may be applied to decisions made by administrative agencies, the court relied on the U.S. Supreme Court opinion in U.S. v. Utah (1966), 384 U.S. 394. That case established three elements which must be present to apply the collateral estoppel doctrine. The first element is whether the administrative agency is "acting in a judicial capacity." The high court found that the administrative hearing conducted by the welfare agency was performed in a judicial capacity since it was conducted impartially, testimony was taken under oath, and the parties had the right to call and examine witnesses and to introduce evidence. Further, the subpoena power was available and a record was made of the proceeding.

The second prong of the Supreme Court test is that the agency resolved disputed issues of fact properly before it. The court found that the Welfare Department had done so.

The third element requires that the administrative hearing provide the parties with an adequate opportunity to fully litigate their claims. The court found that there was such an opportunity provided.

An additional element as to whether collateral estoppel will bar relitigation of an issue decided previously is whether the party against whom collateral estoppel is asserted is a party, or "in privity" with a party at the earlier proceeding. With respect to that final requirement it was contended by the attorney general that the County Welfare Department and the district attorney were not in privity with each other. The Supreme Court dismissed that argument.
The court notes that both the district attorney's office which represents the people and the county are sufficiently close to warrant applying the rule. Both entities are county agencies that represent the interest of the State of California. As both are agents of the same government, the court says that they are in privity with each other since they represent not their own rights but the rights of the government.

Justice Otto Kaus dissented from the six-judge majority opinion. He noted that the majority could not even find a single case in which a civil court judgment against the government or a government agency was held to preclude a subsequent criminal prosecution. Thus, saying that the judgment of an administrative agency could preclude a subsequent criminal prosecution was even more extreme.

* * *

COMMENT:

It is well established that the doctrine of collateral estoppel is applicable to bar subsequent civil litigation between the same parties. In applying the doctrine, courts usually draw no distinction between administrative and judicial trials. See, U.S. v. Utah, supra.

Criminal prosecutions, however, present an entirely different set of considerations. In benefit cases, for example, a claimant may use the administrative hearing process to perpetrate a fraud against the government. The administrative law judge may suspect fraud, but is nevertheless bound to apply the law to the evidence before him. Suspicion, speculation and conjecture do not constitute substantial evidence upon which the judge may rely.

It is doubtful whether an administrative tribunal, offered additional proof, purporting to establish that a party has committed criminal fraud, would decline to exercise available jurisdiction to reconsider the facts. Should the prosecuting attorney be required to disclose his case by first seeking to relitigate the administrative determination? Would an administrative decision in favor of the government collaterally estop the claimant on the issue of criminal liability?

As noted by Mr. Saltzman, the California holding appears to be sui generis. —Ed.