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POSSIBLE APPLICATION OF THE ROOKER-FELDMAN DOCTRINE TO STATE AGENCY DECISIONS: THE SEVENTH CIRCUIT'S OPINION IN VAN HARKEN V. CITY OF CHICAGO

Rebecca Schmucker*

I. Introduction

Rooker-Feldman doctrine precludes federal circuit courts from reviewing decisions by state courts. Rooker-Feldman is based on the idea that state courts are parallel to the lower federal courts which, therefore, do not exercise appellate review over the state court decisions. The Rooker-Feldman doctrine is an extension of the principle that federal courts are courts of limited jurisdiction, by reasoning that "lower federal courts possess no power whatever to sit in direct review of state court decisions."¹

Generally, courts have only applied the Rooker-Feldman doctrine to state *court* decisions. Although courts have applied the Rooker-Feldman doctrine to a state agency judgment under limited circumstances,² courts have largely refrained from applying this doctrine to such decisions.³ In doing so, courts have interpreted the language of the *Feldman* court literally.⁴ However, a recent decision by the Seventh Circuit Court of Appeals, *Van Harken v. City of Chicago*, indicates that, depending on the remedy a plaintiff seeks, the Rooker-Feldman doctrine could apply to state agency decisions.⁵ Although courts are hesitant to apply this doctrine to state agency decisions, the language in *Feldman* need not be read literally because the policy reasons which underlying this doctrine apply just as readily

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¹*Atlantic Coast Line R.R. v. Brotherhood of Locomotive Eng'rs*, 398 U.S. 281, 296 (1970).

²*See infra* notes 29-30 and accompanying text.

³*See infra* part II.B.

⁴*See infra* note 27 and accompanying text.

⁵103 F.3d 1346 (7th Cir. 1997). *See infra* part III.

to state agency decisions as they do to state court decisions.

II. Background

A. Rooker-Feldman Doctrine

The Rooker-Feldman doctrine holds that a federal district court does not have the authority to review a final decision of a state appellate or supreme court.⁶ Decisions by a state's highest court may only be reviewed by the United States Supreme Court, and only if the constitutional issues have been properly raised before the state court.⁷ As the court of appeals in *Texaco Inc. v. Pennzoil Co.*, described, "an inferior federal court established by Congress pursuant to Art. III, § 1, of the Constitution may not act as an appellate tribunal for the purpose of overruling a state court judgment, even though the judgment may rest on an erroneous resolution of constitutional or federal law issues."⁸

The Rooker-Feldman doctrine is founded on two main negative

⁶ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1908); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

In *Rooker*, the plaintiffs claimed that Fidelity, who was trustee of two warranty deeds, had violated the trust agreement. The Indiana trial court entered judgment for Fidelity, foreclosing the mortgage and directing a sale of the property. After the Indiana Supreme Court affirmed the judgment, the Rookers brought suit in federal district court arguing that the state court judgment violated the contract clause of the federal Constitution and the due process and equal protection clauses of the fourteenth amendment. The district court dismissed the case for lack of jurisdiction. On appeal to the Supreme Court of the United States, the Court held that the suit was not within the district court's jurisdiction "as defined by Congress." *Rooker*, 263 U.S. at 415.

In *Feldman*, the plaintiffs filed a petition with the District of Columbia Court of Appeals to waive the District's bar requirement that applicants must graduate from accredited law schools. After the court denied the petition, the plaintiffs filed an action in the federal district court alleging constitutional violations which they had not raised below, and seeking injunctive relief. On appeal to the Supreme Court, the Court reaffirmed the validity of *Rooker*, holding that district courts have no jurisdiction over challenges to state-court judgments in judicial proceedings even if the challenge was that the state court's action was unconstitutional. Under 28 U.S.C. §1257, only the Supreme Court may hear such an appeal. *Feldman*, 460 U.S. at 486.

⁷*Feldman*, 460 U.S. at 482 n.16.

⁸*Texaco, Inc. v. Pennzoil Co.*, 784 F.2d at 1142 (2nd Cir., 1986) reversed on other grounds, 481 U.S. 1 (1987). There is a constitutionally required exception to the Rooker-Feldman doctrine for habeas corpus where a "single federal judge may overturn the judgment of the highest court of a State." *Sumner v. Mala*, 449 U.S. 539, 543-44 (1981).

inferences derived from several provisions of title 28 of the U.S. code.⁹ The first inference is that 28 U.S. C. § 1257, which gives the Supreme Court appellate review of certain state court decisions, is the only federal statute that explicitly provides for federal review of state court decisions. Congress granted original jurisdiction to federal district courts under a variety of statutes, mainly 28 U.S.C. §§ 1331, and 1332.¹⁰ Thus, by inference, 28 U.S.C. § 1257 granted exclusive jurisdiction to the Supreme Court to review final judgments or decrees from the highest court of a state.¹¹ The policy behind this premise is “to facilitate a state appellate process free from federal interference.”¹²

The second inference is that Congress intended to foreclose all other forms of federal court review of state court decisions, whether the case is presented as an appeal or for injunctive or other relief.¹³ Because Congress gave only the Supreme Court the explicit right to review the decisions of a state court, Congress meant to deny all other federal courts that power. This premise recognizes the sensitivity surrounding federal review of state judicial decisions.¹⁴

⁹Benjamin Smith, Note, *Texaco, Inc. v. Pennzoil Co.: Beyond a Crude Analysis of the Rooker-Feldman Doctrine's Preclusion of Federal Jurisdiction*, 41 U. Miami L. Rev. 627, 629 (1987).

¹⁰“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331(a) (1994). “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$10,000 . . . and is between . . . citizens of different states.” 28 U.S.C. § 1332(a) (1994).

¹¹Chang, *Rediscovering the Rooker Doctrine: Section 1983, Res Judicata and the Federal Courts*, 31 HASTINGS L.J. 1337, 1349 (1980) (arguing that the limit on original jurisdiction for federal district courts is a statutory corollary of Congress’s granting exclusive power of review over state court decisions to the Supreme Court under § 1257). The Supreme Court has characterized § 1257 as a limit on its ability to review state court judgments—the Court may only review judgments from the highest state court. *Flynt v. Ohio*, 451 U.S. 619, 620 (1981).

¹²Smith, *supra* note 9, at 629.

¹³*See Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 416 (1908); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482-86 (1983). *See also* Gordon G. Young, *Federal Court Abstention and State Administrative Law From Burford to Ankenbrandt: Fifty Years of Judicial Federalism Under Burford v. Sun Oil Co. And Kindred Doctrines*, 42 DePaul L. Rev. 859, 933 (1993).

¹⁴For example, at the time the Constitution was created, many states argued that the Constitution did not permit federal review of state court decisions. PAUL M. BATOR ET AL., *HART & WECHSLER’S THE FEDERAL COURTS AND THE FEDERAL SYSTEM* 516 (3d ed. 1988).

Also underlying the Rooker-Feldman doctrine is the idea of federalism. The Rooker-Feldman doctrine is designed to preserve the two distinct legal systems so that each may proceed independently of the other, with the Supreme Court as the final arbiter of any federal questions raised in either court system.¹⁵ In this way, the doctrine accords with the jurisdiction statutes enacted by Congress which are designed “to prevent needless friction between state and federal courts’ and to facilitate the deference necessary for this bi-judicial system to function properly.”¹⁶ If federal courts had the power to hear appeals from state appellate courts, it could destroy the finality of state court decisions.¹⁷ The Rooker-Feldman doctrine also stems from the Court's longstanding view that state courts are fully competent to adjudicate federal constitutional claims.¹⁸ The doctrine also presumes that state courts must have the chance to decide federal constitutional concerns with state interests, and that if a federal court interferes with state court decisions, state courts will be unable to form appropriate state policy.¹⁹

The Rooker-Feldman doctrine does not necessarily apply to all state appellate court decisions, however. A federal court cannot review decisions which constitute “judicial acts”; a federal court may hear a case if the state court actions are merely “administrative or ministerial.”²⁰ The distinction between these two actions “depends not upon the character of the body but upon the character of the proceedings.”²¹ In *Feldman*, for example, the Court found that the state bar admissions proceedings, which were conducted by the state's highest court, were ‘judicial acts’ even though it conceded that the state-court proceeding might not have been judicial under state law and that the denial of the petitioner's application for admission to the bar was treated “as a ministerial act which is performed by virtue of the

¹⁵Smith, *supra* note 9, at 636.

¹⁶*Id.* (citing *Atlantic Coast Line R.R. v. Brotherhood of Locomotive Eng'rs*, 398 U.S. 281, 286 (1970)).

¹⁷Chang, *supra* note 11, at 1350.

¹⁸*See, e.g., Huffman v. Pursue*, 420 U.S. 592, 611 (1975) (court rejecting appellee's argument that state court judges would fail in their constitutional responsibilities).

¹⁹Smith, *supra* note 9, at 636.

²⁰*District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 467-77 (1983) (citing *Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 224 (1908)).

²¹*Id.* at 477 (quoting *Prentis*, 210 U.S. at 226).

judicial power, such as the appointment of a clerk or bailiff"²² The state bar admissions proceedings were "judicial acts" because they were, in fact, a judicial inquiry which "investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist."²³ Administrative or ministerial acts, on the other hand, are more like legislation which "looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power."²⁴ Furthermore, federal courts may still hear an appeal based on the constitutionality of the rule on which the decision rests.²⁵ However, as the *Feldman* Court pointed out, federal district court could not review such claims if they are "inextricably intertwined" with the state court action.²⁶

B. Other Circuit Court Decisions on the Application of Rooker-Feldman to Administrative Decisions

Several circuits have considered the idea that the Rooker-Feldman doctrine applies to all decisions by state administrative

²²*Id.* at 477-78 (quoting *In re Summers*, 325 U.S. 561, 566 (1945)).

²³*Id.* at 477 (quoting *Prentis*, 211 U.S. at 226).

²⁴*Id.* Even if a challenge to an administrative procedure were permitted under the Rooker-Feldman doctrine, it could still be open to Burford abstention in some situations. See *Young*, *supra* note 13, at 889-893.

²⁵*Feldman*, 460 U.S. at 483.

²⁶*Id.* at 483. Unfortunately, what "inextricably intertwined" means is not clear. For example, in *Pennzoil v. Texaco*, Texaco was challenging the constitutionality of certain bond and lien provisions, which had not been adjudicated in the state court, and the constitutionality of the trial court judgment. 481 U.S. 1 (1987). Although Justice Powell, who wrote the *Texaco* opinion did not address the Rooker-Feldman question, the other justices did. Justice Scalia in his concurrence stated that the Rooker-Feldman doctrine would not have barred a federal court from hearing this case because the issues raised in the federal court action had not actually been litigated in the state courts nor were they inextricably intertwined with the issues that were litigated in the state court. *Id.* at 18. In Justice Brennan's concurrence, he declared that the Rooker-Feldman doctrine would not bar the federal action because it did not challenge the merits of the state court action but only sought to protect the plaintiff's right to an appeal. *Id.* at 21. However, Justice Marshall, who concurred only in the judgment, stated that the federal district court did lack jurisdiction under the Rooker-Feldman doctrine because "determination of Texaco's claim for an injunction necessarily involved some review of the merits of its state appeal [and] Texaco's constitutional claims were inextricably intertwined with the merits of the Texas judgment . . ." *Id.* at 26.

For a discussion on 'inextricably intertwined' see *Smith*, *supra* note 9, at 642-43.

agencies, as well as state court decisions. All of these circuits have rejected the idea. The courts base their rejection on the language in *Feldman* stating that Rooker-Feldman only applies to "final judgments of a state court."²⁷ Even if the decision by the state agency was a "judicial act" and not merely "administrative or ministerial," courts still refuse to apply the Rooker-Feldman doctrine.²⁸

The courts, however, have allowed for some limited exceptions to the rule. First, in *Narey v. Dean* the Eleventh Circuit held that the Rooker-Feldman doctrine could apply to state agency decisions that have been upheld by a state court because then "a challenge to the agency's decision [would] necessarily involve a challenge to the judgment of the state court."²⁹ Second, in *Scott v. Flowers* and *Narey*, the Fifth Circuit and the Eleventh Circuit, respectively, held that Rooker-Feldman could apply to decisions by state agencies which were essentially agents of a state court but the doctrine would not apply to agencies which were independent.³⁰

In *Scott*, a Commission "investigated the complaints lodged against Scott, declared him in violation of the then-existing Code of Judicial Conduct, and enforced its determination by issuing a public reprimand."³¹ Despite the judicial nature of the Commission's actions, however, the court held that the Rooker-Feldman did not apply because the Commission could not be regarded as the agent of the state court system. The Commission was constitutionally established and given a measure of independence from the courts. Furthermore, the Commission's members were not all appointed directly by the state court; the majority of members were chosen by independent bodies. The structure and functions of the Commission made it largely independent of the state courts and, therefore, not agents of the state

²⁷*Ivy Club v. Edwards*, 943 F.2d 270, 284 (3d Cir.1991) (quoting *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983)) (emphasis added); *Narey v. Dean*, 32 F.3d 1521, 1525 (11th Cir.1994) (emphasis added).

²⁸*See, e.g., Scott v. Flowers*, 910 F.2d 201, 208 (5th Cir. 1990) (holding that Rooker-Feldman would not apply to a state agency decision even though the court had "little difficulty in concluding that the [agency's] reprimand of Scott was a judicial act"). *See infra* text accompanying note 31.

²⁹*Narey*, 32 F.3d at 1525.

³⁰*Scott*, 910 F.2d at 208; *Narey*, 32 F.3d at 1525.

³¹*Scott*, 910 F.2d at 208.

courts.³²

Similarly, in *Narey*, the court distinguished a decision by the state agency, a state personnel board appointed by the governor, from decisions by a state bar where the court had applied the Rooker-Feldman doctrine.³³ The court rejected the argument that Rooker-Feldman should apply to any state administrative proceeding that is judicial in nature. Rather, the court held that Rooker-Feldman only applied to proceedings where the agency is essentially an agent of a state court, as is the case with the board of bar examiners.³⁴

III. The Seventh Circuit Decision

Thus far, federal courts have only applied the Rooker-Feldman doctrine to state agency decisions if the agency is essentially an agent of the state courts or if a state court had already reviewed the agency's decision. However, the Seventh Circuit's decision in *Van Harken v. City of Chicago*³⁵ seems to indicate that Rooker-Feldman may also apply to state agency decisions depending on what remedy a plaintiff is seeking.

In *Van Harken*, the plaintiffs filed a class action suit against the City of Chicago in the federal district court claiming that the city's new administrative system for adjudicating parking violations violated the due process clause of the U.S. and Illinois Constitutions.³⁶ The court dismissed the suit for failure to state a claim.³⁷ On appeal, the Seventh Circuit disagreed with the defendant's argument that a federal court did not have the jurisdiction to hear an appeal from a state administrative agency.

The court based its conclusion on two factors. First, the court

³²*Id.*

³³*Narey*, 32 F.3d at 1525. See, e.g., *Thomas v. Kadish*, 748 F.2d 276 (5th Cir.), cert. denied, 473 U.S. 907 (1984) (holding that under Rooker-Feldman, the federal court had no jurisdiction to hear an appeal from a state bar proceeding).

³⁴*Narey*, 32 F.3d at 1525.

³⁵103 F.3d 1346, 1348 (7th Cir. 1997).

³⁶*Id.* at 1348. Class members were composed of both persons who had been adjudged liable for a parking violation and paid their fines and persons who had received parking tickets but still had time to contest them. *Id.* Chicago is now in the process of creating a central panel system for hearing many different types of ordinance violations.

³⁷*Id.*

held that it would not require the plaintiffs to exhaust all the appellate remedies that the state provided in its own courts; they could file an action in federal court instead.³⁸ Second, the court stated that Rooker-Feldman could not apply in this instance because of the relief the plaintiffs were seeking. In this case, insofar as the plaintiffs were simply challenging the constitutional adequacy of the procedures used to adjudicate the parking violation, they were not barred by Rooker-Feldman because they are not challenging the judgment in any particular parking case.³⁹ However, to the extent that the plaintiffs were seeking a refund for the parking fines they paid, they *were* barred by Rooker-Feldman. The court based this distinction between the types of relief sought on the *Feldman* decision. In *Feldman*, the plaintiffs were challenging the constitutionality of the rule under which they had been denied admission to the bar.⁴⁰ Although the Supreme Court did not allow the plaintiffs to challenge the denial itself, it held that if the plaintiffs prevailed on their challenge to the rule, they may or may not get a new hearing on the denial of their applications for admission. To that extent, the Rooker-Feldman doctrine did not prevent a form of collateral attack upon a state court judgment by a suit brought in a federal district court. Therefore, the Seventh Circuit held that Rooker-Feldman would not prevent the court from hearing the case for declaratory relief.⁴¹

IV. Analysis

Although the Fifth and Eleventh Circuits have indicated that under certain circumstances the Rooker-Feldman doctrine will apply to

³⁸*Id.* at 1349. The court pointed out that people who had lost in state administrative proceedings were allowed to seek relief in a federal district court under civil rights legislation such as 42 U.S.C. § 1983. *See, e.g., Patsy v. Board of Regents*, 457 U.S. 496, (1982) (court rejected the argument that plaintiff was required to exhaust administrative remedies before suing under §1983). The court stated that it could not “believe that these cases were decided as they were simply because the defendants failed to argue Rooker-Feldman.” Van Harken, 103 F.3d at 1349.

³⁹Van Harken, 103 F.3d at 1349 (citing *Buckley v. Illinois Judicial Inquiry Board*, 997 F.2d 224, 227 (7th Cir.1993)).

⁴⁰*District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 487-88 (1983).

⁴¹Van Harken, 103 F.3d at 1349.

an state administrative agency's decisions,⁴² the Seventh Circuit has expanded these exceptions. According to the Seventh Circuit's reasoning, a federal court could not have power to review an administrative decision wherein the plaintiff seeks to challenge the judgment of the agency. A federal court can only review state agency decisions when the plaintiff is challenging the constitutionality of the rule underlying the agency's decision. Furthermore, although the Supreme Court has allowed plaintiffs to bring a section 1982 action to federal court after a state agency proceeding,⁴³ federal courts will not have jurisdiction to review if a plaintiff pursues the state administrative remedies.

In *Narey*, the Eleventh Circuit held that the Rooker-Feldman doctrine could apply to state agency decisions that have been upheld by a state court because it would involve a challenge to the state court's judgment.⁴⁴ The only alternative to a plaintiff in such a case is to seek state court review. In addition, even if the plaintiff is challenging the constitutionality of the rule that is the basis for the administrative decision, according to the Rooker-Feldman doctrine, a federal court still may not review the decision if the constitutional challenge is 'inextricably intertwined' with the judgment by the administrative agency.⁴⁵

The application of Rooker-Feldman, therefore, practically eliminates the jurisdiction of federal courts to hear state agency decisions. The only option for a plaintiff is to appeal the decision in state court with potential federal court review only in the U.S. Supreme Court.⁴⁶ If a state creates an administrative appeals system through the state courts, the agency's decision will be virtually free of any practical federal review because the Supreme Court can only hear a very limited number of appeals.

Although the language in *Feldman* states that the doctrine

⁴²See *supra* notes 29-30 and accompanying text.

⁴³*Patsy v. Board of Regents*, 457 U.S. 496 (1982).

⁴⁴*Narey v. Dean*, 32 F.3d 1521, 1525 (11th Cir.1994).

⁴⁵See *supra* note 23 and accompanying text.

⁴⁶Amitai Schwartz, *State and Federal Relations Under Section 1983*, in SECTION 1983 CIVIL RIGHTS LITIGATION AND ATTORNEYS' FEES 1988, 615, 652 (PLI Litig. & Admin. Practice Course Handbook Series Litigation No. 357, 1988).

applies to "final judgments of a state court in judicial proceedings,"⁴⁷ the policy reasons behind the Rooker-Feldman doctrine can also apply to state agency decisions.⁴⁸ The federal courts have focused mostly on the "court" language in *Feldman*, rather than relying on the "judicial" verses the 'administrative or ministerial' distinction.⁴⁹ Agency decisions often are "judicial acts," and as such federal courts should accord the same deference as to state court decisions.

V. Conclusion

Although the Rooker-Feldman doctrine has never been directly applied to a decision by a state agency, that is independent of a state court, the option of the Seventh Circuit in *Van Harken* expands the possible application of that doctrine given the right circumstances. If this doctrine is applied, states could set up a system of review for their agencies wherein agency decisions are not reviewable by any federal court, other than the United States Supreme Court. A state could, for example, require that administrative adjudications of paternity and child support orders be registered with the clerk of the court, and be accorded the same judicial effect as a judicial decision. In practical terms this would ensure that only state courts could review such state agency decisions.⁵⁰

⁴⁷District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983).

⁴⁸See *supra* notes 9, 11-22 and accompanying text.

⁴⁹See *supra* notes 29-30 and accompanying text.

⁵⁰For further discussion of this issue, J. NAALJ will publish a casenote in the next issue of the recent decision in *City of Chicago v. International College of Surgeons*, ___ U.S. ___, 118 S.Ct. 523 (1997).