

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted June 14, 2024*

Decided June 18, 2024

BeforeMICHAEL Y. SCUDDER, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1011

TONYA E. TRZEBNY,
*Plaintiff-Appellant,**v.*MARTIN J. O'MALLEY, Commissioner
of Social Security,
*Defendant-Appellee.*Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 23-CV-531

William E. Duffin,
*Magistrate Judge.***ORDER**

Tonya Trzebny appeals the dismissal of her civil rights lawsuit against Martin O'Malley, the Commissioner of the Social Security Administration. Because Trzebny's complaint draws from the same set of facts as an earlier lawsuit challenging the denial

* We have agreed to decide the case without oral argument the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

of her application for disability insurance benefits, her claim is barred by the doctrine of claim preclusion. We affirm.

Trzebny applied for disability benefits in 2019, asserting that she had been disabled since 2006, when she was diagnosed with anxiety and bipolar disorders. An administrative law judge denied her claim, so Trzebny sued in federal court to reverse that determination. A district court upheld the decision, and we affirmed. *See Trzebny v. Kijakazi*, No. 22-2919, 2023 WL 3480912 (7th Cir. May 16, 2023). In doing so, we rejected Trzebny's argument that the ALJ improperly discussed evidence suggesting that she abused prescription medications; we explained that the ALJ's discussion supplied appropriate context for Trzebny's symptoms and treatment history. *Id.* at *3.

While the appeal in her first case was pending, Trzebny filed a second lawsuit asserting that the administrative decision to deny her benefits discriminated against individuals with a substance-abuse disorder, in violation of the Rehabilitation Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act. *See* 29 U.S.C. § 794; 42 U.S.C. § 2000e-2; *id.* §§ 12111–12117. The Commissioner moved to dismiss the complaint or, in the alternative, for summary judgment.

The district court then ordered the Commissioner to comply with the Eastern District of Wisconsin's Local Rule 56(a)(1), which requires attorneys litigating against pro se parties to include the relevant local and federal rules with their motions for summary judgment and to explain that the court would take uncontradicted facts as true for purposes of deciding the motion. The Commissioner filed a document that excerpted the necessary rules but failed to warn Trzebny that uncontested factual assertions would be accepted as true. Because of the defective notice, the district court ordered the Commissioner to amend its submission and granted Trzebny leave to amend her response to the motions. The Commissioner eventually filed a document that fully complied with Local Rule 56(a), and Trzebny in turn amended her response. She also asked the court to deny the Commissioner's motion to dismiss as a sanction against him for his delayed compliance with the local rule.

The district court then granted the Commissioner's motion to dismiss on grounds of claim preclusion. The court determined that Trzebny was effectively trying to collaterally attack the original denial of her application for disability benefits, but the doctrine of claim preclusion barred her second suit because it stemmed from the same set of operative facts as her first. The court also rejected Trzebny's request for sanctions as irrelevant because it was deciding her case under Federal Rule of Civil Procedure 12(b)(6) rather than Rule 56, so the Commissioner's compliance with Local Rule 56(a)

was not at issue. The court granted Trzebny leave to file an amended complaint asserting any claims not related to the past benefits decision.

Trzebny amended her complaint, but the amended complaint largely duplicated her first, so the district court screened and dismissed it under 28 U.S.C. § 1915(e)(2)(B).

On appeal, Trzebny maintains that the district court inappropriately applied claim preclusion. That doctrine (also known as *res judicata*) bars a lawsuit when it involves the same parties and same claim as an earlier lawsuit that was resolved on the merits. *See Daza v. Indiana*, 2 F.4th 681, 683 (7th Cir. 2021). Trzebny asserts that her two cases do not involve the “same claim” because this lawsuit charged discrimination in the adjudication of her application for benefits while the prior lawsuit challenged the merits of the ALJ’s decision to deny her application.

But “[s]uits involve the same claim (or ‘cause of action’) when they arise from the same transaction or involve a common nucleus of operative facts.” *Lucky Brand Dungarees, Inc. v. Marcel Fashions Grp., Inc.*, 590 U.S. 405, 412 (2020) (cleaned up). And here, Trzebny’s two suits arise out of the same common nucleus of operative facts. Trzebny acknowledges that her current suit “is a result of discriminatory statements and decisions made by SSA during the application for benefits” — in other words, this suit arises from the ALJ’s decision that underlies her earlier suit. Trzebny’s current lawsuit might advance a different legal theory (discrimination against individuals with substance abuse) from her first suit, but that does not transform the theory into a new claim. *See Bernstein v. Bankert*, 733 F.3d 190, 226–27 (7th Cir. 2013). If Trzebny wanted to argue that the ALJ’s decision was marred by unlawful discrimination, she needed to do that in her first lawsuit. It is too late to do so now — the doctrine of claim preclusion prevents “second, third, or nth bites at the apple.”¹ *Daza*, 2 F.4th at 683.

Trzebny next argues that the district court should have denied the Commissioner’s motions to dismiss and for summary judgment as a sanction for failing to comply with Local Rule 56(a). We review a district court’s enforcement of its local rules for an abuse of discretion, *Hinterberger v. City of Indianapolis*, 966 F.3d 523, 528

¹ For completeness, we note that a court may entertain an “independent action” seeking relief from a judgment where “injustices...are deemed sufficiently gross to demand a departure from rigid adherence to the doctrine of *res judicata*.” *United States v. Beggerly*, 524 U.S. 38, 46 (1998) (citations omitted). But Trzebny has never argued that this suit is an “independent action” under Rule 60(d)(1), and applying the doctrine of claim preclusion does not threaten a “grave miscarriage of justice.” *See id.* at 47.

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(7th Cir. 2020), and here there was no abuse of discretion. After the Commissioner filed a notice that complied with the local rule, the court allowed Trzebny to amend her response opposing summary judgment, ensuring that she received the full benefit of the local rule.

Trzebny has now pursued two lawsuits involving the denial of her application for disability benefits; both were unsuccessful. We close by cautioning her that litigating the denied application further may result in sanctions, including fines that, if unpaid, could result in a bar on filing papers in any court within this circuit. *See Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995).

AFFIRMED