

NONPRECEDENTIAL DISPOSITION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 April 4, 2025*

Decided April 14, 2025

BeforeDIANE S. SYKES, *Chief Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2732

DUSTIN M. NEVIL,
*Plaintiff-Appellant,**v.*LAURIE B. WILSON,
*Defendant-Appellee.*Appeal from the United States District
Court for the Southern District of
Indiana, Evansville Division.

No. 3:23-cv-00125-MPB-CSW

Matthew P. Brookman,
*Judge.***ORDER**

Dustin Nevil has litigated twice against his ex-wife, Laurie Wilson, both times raising arguments under the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510–2523. The first suit was their divorce case, in which she sought to introduce screenshots taken from his phone as evidence of his misconduct; he objected, citing the

* We have agreed to decide the case without oral argument because 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).

Act, but the state judge rejected his argument. The second suit is this federal case against his ex-wife alleging violations of the Act. The district judge dismissed the suit based on collateral estoppel. Because Nevil has not properly challenged that ruling, we affirm.

Nevil and Wilson were engaged in divorce proceedings from 2021 to 2023 in Indiana state court. During those proceedings, Wilson introduced evidence consisting of screenshots and photos that she had discovered on Nevil's phone. Nevil objected to the admission of the screenshots, arguing that Wilson took them from his phone in violation of the Electronic Communications Privacy Act. The state judge overruled the objection and admitted the evidence.

Nevil then turned to federal court, filing two identical suits alleging that Wilson and her lawyers in the divorce proceedings violated the Act by obtaining screenshots and photos from his phone. The suits were later consolidated, and Wilson and another defendant jointly moved for judgment on the pleadings. *See* FED. R. CIV. P. 12(c). They argued that collateral estoppel bars Nevil's claims under the Act because he litigated the same claims in his divorce proceedings and lost, and the state court's decision has preclusive effect in the federal litigation. The district judge agreed and dismissed the case.

Nevil appealed, but the scope of our review is quite limited. Pursuant to a joint stipulation of the parties under Rule 42(b) of the *Federal Rule of Appellate Procedure*, we dismissed the appeal against all defendants except Wilson. And Nevil did not contest the judge's collateral estoppel ruling in his opening brief. He belatedly argued in his reply brief that applying collateral estoppel was improper, but arguments raised for the first time in a reply brief are waived. *Tuduj v. Newbold*, 958 F.3d 576, 579 (7th Cir. 2020).

That leaves us to consider the two contentions that Nevil raised in his opening brief. He argued first that the district judge violated his right to due process by not holding an evidentiary hearing in connection with Wilson's Rule 12(c) motion for judgment on the pleadings. But a judge may, consistent with due process, dismiss a complaint without an evidentiary hearing if the plaintiff received "notice and an opportunity to respond" to the motion. *A. Bauer Mech., Inc. v. Joint Arb. Bd. Plumbing Contractors' Ass'n*, 562 F.3d 784, 792 (7th Cir. 2009). That occurred here. To the extent that Nevil argues that, in the exercise of his discretion, the judge should have granted Nevil's request for an evidentiary hearing, we disagree. Because the Rule 12(c) motion tested only whether Nevil's claim faced a legal bar to relief, its resolution did not turn on any factual issues. *See Bishop v. Air Line Pilots Ass'n, Int'l*, 900 F.3d 388, 397 (7th Cir.

No. 24-2732

Page 3

2018). So there was no reason to hold a hearing; denying Nevil's request for a hearing was entirely proper. *See REXA, Inc. v. Chester*, 42 F.4th 652, 672 (7th Cir. 2022).

Second, Nevil argues that his right to due process was violated because the judge appeared to be, or was, biased against him. Nevil bases his charge of bias on his unsupported assertion that one of Wilson's lawyers had previously interned for the judge. He offers no evidence to substantiate this assertion. And due process is not offended merely because a lawyer in a case had a previous professional relationship with the judge. *See Pettis v. United States*, 129 F.4th 1057, 1062–63 (7th Cir. 2025). Nevil has not provided any basis to think that the prior professional relationship—if it existed—created the kind and degree of actual bias or risk of bias that would trigger a due-process duty of recusal. *Id.* at 1063.

AFFIRMED