

Application of res judicata in § 1983 actions

In Preiser v. Rodriguez, 411 U.S. 475, 497, the Court observed that the courts of appeals generally have held res judicata fully applicable in § 1983 actions. This Court, however, has never itself ruled on this problem, which seems to arise with some frequency. The general question is whether a § 1983 action can be employed to attack collaterally, on constitutional grounds, a final state civil or criminal judgment. The term "collateral attack" designates an attempt, ^{a separate, "collateral"} in an action ~~not expressly designed for that purpose,~~ to seek relief from the consequences of a judgment on the ground that it is void. In habeas corpus, the most common form of federal collateral attack on state criminal judgments, and also state civil judgments resulting in confinement, the grounds for deeming a judgment void have expanded radically in the last forty years to include procedural, as well as substantive constitutional violations, in addition to traditional jurisdictional defects. Habeas is, of course, unavailable when the federal plaintiff is not in custody consequent to the judgment. In that circumstance, can or should § 1983 be employed in a manner analogous to habeas; and if so, should the grounds for collateral attack - if any - be narrower than those in habeas?

Justice Powell has spoken to one aspect of this problem in the Ellis v. Dyson dissenting opinion, No. 73-130, at 2-6. For a general discussion of collateral attack and possible bases for distinguishing, on a balancing analysis, between the scope of habeas and other forms of collateral attack, see Schlesinger v. Councilman, No. 73-662, at 5-15. For application of the balancing test to determine the proper bases of habeas relief, see Justice Powell's concurrence in Schneekloth v. Bustamonte, 412 U.S. 218, 256-75. On the general problem the Harvard Developments notes on Habeas Corpus and Res Judicata will be useful starting points.