

**SUPREME COURT OF LOUISIANA**

**No. 07-C-2496**

**RICHARD GARDACHE**

**VERSUS**

**CITY OF NEW ORLEANS POLICE DEPARTMENT**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FOURTH CIRCUIT, PARISH OF ORLEANS**

**PER CURIAM**

Finding that the court of appeal erred in reversing the judgment of the district court and remanding this matter, we grant this writ to reinstate the district court's judgment.

In the present case, plaintiff, Richard Gardache, on December 20, 2000, filed a disputed claim for compensation seeking reinstatement of his supplemental earning benefit payments (SEBs) arising from a 1984 work-related injury. On March 19, 2003, the workers' compensation hearing officer, relying on *Cline v. St. Jude Medical Center*, 619 So.2d 712 (La. App. 4<sup>th</sup> Cir. 1993), entered a judgment dismissing plaintiff's claim with prejudice. Plaintiff appealed that judgment, which the appellate court affirmed on March 31, 2004. *Gardache v. City of New Orleans*, 03-1286 (La. App. 4 Cir. 3/31/04), 874 So.2d 247 (*Gardache I*). This Court denied writs on June 18, 2004. *Gardache v. City of New Orleans*, 04-1047 (La. 6/18/04), 876 So.2d 812. Subsequently, on January 19, 2005, this Court in *Frith v. Riverwood, Inc.*, 04-1086 (La. 1/19/05), 892 So.2d 7, 12, specifically overruled both *Cline* and *Gardache I*.

Upon learning of the decision in *Frith*, plaintiff filed another disputed claim for compensation seeking SEBs on April 6, 2005. The defendant, the City of New Orleans, filed an exception of res judicata, which the workers' compensation hearing

officer granted. Plaintiff appealed the judgment, and the court of appeal reversed, holding: “Although there is no bright letter rule on the issue of whether *res judicata* would apply when our earlier opinion in Gardache v. City of New Orleans has been overruled, it appears unfair that Mr. Gardache should be bound by it.” *Gardache v. City of New Orleans*, 07- 0269, p. 5 (La. App. 4 Cir. 11/28/07), \_\_ So.2d \_\_.

“A claim that a prior adjudication was incorrect, because of an erroneous interpretation of law, or because of reliance on a legal principle later overruled, is immaterial to the application of *res judicata* in a following proceeding so long as the requirements of *res judicata* are met.” *McClendon v. State, Dept. of Transp. and Development*, 94-0111, p. 4 (La. 9/6/94), 642 So.2d 157, 160. In the present case, all elements of *res judicata* are met. Plaintiffs’ claims against defendant in this suit are identical to what was demanded in the first suit, reinstatement of indemnity benefits arising from his 1984 work injury. The parties to this litigation are the same, and the matter was concluded by a definitive judgment when the court of appeal affirmed the findings of the district court and this Court thereafter denied writs. Therefore, contrary to the court of appeal’s holding, the fact that this Court subsequently overruled the precedent of *Gardache I* and *Cline in Frith* is of no consequence.

Moreover, “[a] judgment denying benefits is *res judicata* after the claimant has exhausted his rights of appeal.” La. Rev. Stat. §23:1310.8(E). When this Court denied writs, plaintiff exhausted his rights of appeal, and the judgment denying benefits became final. Any subsequent proceeding is barred based on *res judicata*.

Accordingly, the judgment of the court of appeal is reversed, and the judgment of the district court sustaining defendant’s exception of *res judicata* is reinstated.