

A man was charged in a state court in State A with involuntary manslaughter for causing the death of a pedestrian while driving under the influence of alcohol. The jury found the man guilty, and the court entered a judgment of conviction.

The pedestrian's family has now filed a wrongful death action against the man in a federal district court in State B. The family has moved for partial summary judgment, arguing that the state court judgment binds the federal court on the issues of whether the man breached his duty and caused the pedestrian's death.

State A permits nonmutual issue preclusion. However, State B prohibits nonmutual issue preclusion.

Should the federal court grant the family's motion?

- A. No, because the prior judgment was entered by a state court.
- B. No, because the state court action involved a criminal prosecution while the federal court action involves a civil claim.
- C. Yes, because the issues of whether the man breached his duty and caused the pedestrian's death were actually litigated and necessarily decided in the state court action.
- D. Yes, because the state court judgment is the law of the case.

Explanation:

Issue preclusion (ie, collateral estoppel) precludes the relitigation of **issues** that were **actually litigated, determined, and necessary** to a valid final judgment in a prior civil action OR criminal prosecution (**Choice B**). There are two types of issue preclusion:

- **Mutual** – when issue preclusion is **asserted by parties** to the first action against other parties to the first action
- **Nonmutual** – when issue preclusion is **asserted by nonparties** to the first action against parties to the first action

To determine which preclusion rule applies, the second court will look to the **law of the forum** that entered the first judgment. Here, the State A state court entered judgment in the prior criminal prosecution, so the State B federal court should now apply State A's preclusion law in this wrongful death action. Since State A permits nonmutual issue preclusion, the family (nonparty to the first action) may assert issue preclusion against the man (party to the first action).

In the criminal prosecution, the jury found the man guilty of involuntary manslaughter—ie, an unintentional killing with criminal negligence. This means that the issues of whether the man breached a duty and caused the pedestrian's death were actually litigated and necessarily decided in the first action. Therefore, the federal court should grant the family's motion for partial summary judgment on these issues.*

*The family cannot obtain full summary judgment because it still must prove damages, which were not actually litigated or necessarily determined in the criminal prosecution.

(Choice A) A court must give full faith and credit to federal *and* state court judgments. Therefore, the fact that the prior judgment was entered by a state court is irrelevant.

(Choice D) The **law-of-the-case doctrine** prohibits the relitigation of legal issues decided at a previous stage of the *same* case. This doctrine does not apply here since the criminal prosecution and the wrongful death action are two different cases.

Educational objective:

Issue preclusion bars the relitigation of issues that were actually litigated and necessarily determined by a valid final judgment in a prior civil action or criminal prosecution. The second court will look to the law of the forum that entered the first judgment to determine if mutual or nonmutual issue preclusion applies in the subsequent action.

References

- Restatement (Second) of Judgments § 85 (Am. Law Inst. 1982) (explaining the effect of a criminal judgment in a subsequent civil action).

- 18B Charles Alan Wright et al., Federal Practice and Procedure § 4474 (2d ed. 2020) (describing how nonparties to a criminal prosecution may assert issue preclusion against a party to the prosecution in a later civil action).

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Assertion of issue preclusion

