

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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JOSEPH CATALANO,

Plaintiff–Appellant,

v

CHARTER TOWNSHIP OF CLINTON and  
CHARTER TOWNSHIP OF CLINTON’S FIRE  
AND POLICE CIVIL SERVICE COMMISSION,

Defendants–Appellees.

UNPUBLISHED

August 6, 1996

No. 184239

LC No. 93-005412

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Before: Sawyer, P.J., and Bandstra and M.J. Talbot,\* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court order that granted summary disposition to defendants pursuant to MCR 2.116(C)(7). Following his arrest for conspiracy to distribute marijuana, 21 USC 846, and unlawful use of a communication facility, 21 USC 843(b), plaintiff entered a plea agreement in federal court. Under the terms of the agreement, plaintiff offered to plead guilty to the charge of an unlawful use of a communication facility in exchange for a dismissal of the charge of conspiracy to distribute marijuana. Plaintiff also agreed not to contest any disciplinary action taken against him by his employer. Despite this agreement, plaintiff filed this lawsuit alleging that he was wrongfully terminated from his employment following his arrest. The trial court found that the plea agreement entered in federal court could not be collaterally attacked in the state circuit court, and thus dismissed plaintiff’s claim. Plaintiff now appeals that decision. We affirm.

Although plaintiff had a right to a public hearing regarding his termination pursuant to MCL 38.514; MSA 5.3364 and MCL 35.402; MSA 4.1222, he apparently waived such right in signing a federal plea agreement that contained the following language:

In addition to the guilty plea stated in paragraph 1, the defendant agrees that he shall not contest any disciplinary action taken by his present employer, the Clinton

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Township Fire Department, as a result of this conviction and sentence nor shall he challenge or request back pay from the suspension imposed on him on September 28, 1990 but the defendant does not waive or surrender any other rights or claims which may have accrued between defendant and his employer prior to the dates of conviction and sentence in this matter.

FR Crim P 11(e)(3) states:

**(3) Acceptance of a plea agreement.** If the court accepts the plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement.

It is clear from FR Crim P 11(e)(3) that the provisions of a plea agreement are part of a judgment entered by a federal court. Judgments and decrees of federal courts within a state are given the same dignity as judgments issued by the state courts of equal authority. *Real Estate Exchange Corp v Muskegon Co Drain Comm'r*, 304 Mich 596, 611; 8 NW2d 652 (1943); *Bell v Fox*, 206 Mich App 522, 526; 522 NW2d 869 (1994). A collateral attack occurs whenever a challenge is made to a judgment in any manner other than through a direct appeal. *People v Howard*, 212 Mich App 366, 369; 538 NW2d 44 (1995). In this case, plaintiff challenges the validity of his plea agreement that was part of the judgment entered against him in federal court. Thus, his state court claim amounts to a collateral attack on the validity of his plea agreement. *Id.* Collateral attacks on the validity of a plea agreement are not permitted where the individual was represented by counsel. *Id.* at 369-370. In this case, plaintiff was represented by an attorney when he entered into his federal plea agreement. Thus, the waiver provision of the plea agreement was not subject to collateral attack. *Id.* Accordingly, plaintiff's state-court challenge to his federal plea agreement was properly dismissed by the trial court pursuant to MCR 2.116(C)(7).

We affirm.

/s/ David H. Sawyer  
/s/ Richard A. Bandstra  
/s/ Michael J. Talbot