

MAY 15 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARNOLD JUSTICE,

Plaintiff - Appellant,

v.

MARK RALL; et al.,

Defendants - Appellees.

No. 07-16999

D.C. No. CV-04-00684-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Submitted May 12, 2008**

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

This is an appeal from the district court's judgment dismissing the complaint on the basis of res judicata.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Appellant is a prisoner seeking relief under 42 U.S.C. § 1983 for alleged civil rights violations. Appellant alleges that in 1998 he was injured during his arrested by the appellees. Appellant filed a suit in Sacramento County Superior Court against the appellees, alleging violations of state and federal law. The state court granted summary judgment to the appellees on September 29, 2003.

Appellant filed this federal complaint against the same defendants, and based upon the same allegations.

On March 14, 2008, this court denied appellant's motion to proceed in forma pauperis and ordered appellant to show cause why the district court's judgment should not be summarily affirmed. Appellant's response states that he was initially granted a default by the district court, that his case should be heard on the merits, and that he has not had access to the law library.

A review of the record and response to the order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.