

JUL 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDRE BRIGHAM YOUNG,

Plaintiff - Appellant,

v.

PAUL SPIZMAN,

Defendant - Appellee.

No. 08-35220

D.C. No. 3:07-cv-05717-RBL

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Ronald B. Leighton, District Judge, Presiding

Submitted July 14, 2009\*\*

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Andre Brigham Young, a Washington state civil detainee, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging

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\* 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).

that Dr. Paul Spizman made false statements about him in connection with annual reviews conducted under Washington's sexually violent predator law. *See* Wash. Rev. Code § 71.09.070. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal based on res judicata. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed this action because Young's claims are identical to claims he raised in a 2005 action that resulted in a judgment on the merits in favor of Dr. Spizman. *See Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003) (explaining that res judicata applies whenever three elements are satisfied: (1) an identity of claims, (2) a final judgment on the merits, and (3) privity between the parties).

Because we affirm on the basis of res judicata, we need not reach the parties' other arguments.

**AFFIRMED.**