

JAN 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VERNITA A. HENSON, a single female,

Plaintiff - Appellant,

v.

TUCSON UNIFIED SCHOOL
DISTRICT; et al.,

Defendants - Appellees.

No. 07-16650

D.C. No. CV-06-00667-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, WALLACE and RYMER, Circuit Judges.

Vernita A. Henson appeals pro se from the district court's judgment
dismissing her 42 U.S.C. § 1983 action under the doctrine of res judicata. We have

* 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).

jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002), and we affirm.

The district court properly dismissed the action because Henson’s section 1983 claims were resolved by a judgment on the merits in a prior state court action involving the same parties, and Henson’s newly-asserted claims could have been raised in the state court action. *See Olson v. Morris*, 188 F.3d 1083, 1086 (9th Cir. 1999) (“[Under Arizona law, the] doctrine [of res judicata] binds the same party standing in the same capacity in subsequent litigation of the same cause of action, not only upon facts actually litigated but also upon those points that might have been litigated.”); *Gilbert v. Bd. of Med. Exam ’rs*, 745 P.2d 617, 622 (Ct. App. 1987), *abrogated by statute on other grounds as noted in Goodman v. Samaritan Health Sys.*, 990 P.2d 1061, 1067 n. 7 (Ct. App. 1999) (same); *see also Union Interchange v. Van Aalsburg*, 432 P.2d 589, 592 (Ariz. 1967) (explaining that in Arizona, a summary judgment is a judgment on the merits).

Henson’s remaining contentions are unpersuasive.

AFFIRMED.