

SEP 24 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANIEL J. MILLER, Jr.,

Plaintiff - Appellant,

v.

CITY OF LOS ANGELES,

Defendant - Appellee,

and

LOS ANGELES DEPARTMENT OF  
WATER AND POWER; CITY OF LOS  
ANGELES BOARD OF CIVIL SERVICE  
COMMISSIONERS; GENE COUFAL;  
DANIEL RAFTEVOLD; MICHAEL  
DAUGHTRY; DENISE MCGORRIN,

Defendants.

No. 09-55752

D.C. No. 2:09-cv-01117-ODW-CT

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Otis D. Wright, District Judge, Presiding

Argued and Submitted June 11, 2010  
Pasadena, California

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

Before: TROTT and W. FLETCHER, Circuit Judges, and MAHAN, \*\*  
District Judge.

Daniel Miller appeals the district court's granting of a 12(b)(6) motion to dismiss his employment-related retaliation and discrimination claims brought under 42 U.S.C. §§ 1981, 1983. We affirm.

The district court properly dismissed Miller's complaint because all claims in it are claim-precluded by the state court proceedings under 28 U.S.C. § 1738. Miller's complaint in a California Superior Court contained all of the claims now asserted in federal court. The California Court of Appeal affirmed the Superior Court's decision, and the California Supreme Court denied review. Those claims are now precluded in federal court.

**AFFIRMED.**

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\*\* The Honorable James C. Mahan, United States District Judge for the District of Nevada, sitting by designation.