

SEP 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAYMOND LUDWIG FROST,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>DORA B. SCHRIRO; et al.,</p> <p>Defendants - Appellees.</p>

No. 11-17168

D.C. No. 2:08-cv-01559-PGR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Paul G. Rosenblatt, District Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Arizona state prisoner Raymond Ludwig Frost appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging First Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review

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

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

for an abuse of discretion the district court's application of judicial estoppel.

Hamilton v. State Farm Fire & Cas. Co., 270 F.3d 778, 782 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion by dismissing Frost's claims on the basis of judicial estoppel because Frost was aware of, but failed to disclose, those claims during his bankruptcy proceedings, and the bankruptcy court relied on the omission in initially granting a discharge. *See id.* at 784-85 (applying judicial estoppel where debtor knowingly failed to disclose the existence of a cause of action as an asset in a bankruptcy proceeding, and the bankruptcy court relied on the nondisclosure).

AFFIRMED.