

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 19 2015

FOR THE NINTH CIRCUIT

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

DEREK TODD,

Plaintiff - Appellant,

v.

KEIRITH BRIESENICK, Officer B# 40; et
al.,

Defendants - Appellees.

No. 13-17593

D.C. No.

2:13-cv-02231-JAM-CKD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted May 13, 2015**

Before: LEAVY, CALLAHAN, and M. SMITH, Circuit Judges.

Derek Todd appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action against Davis Police officers, Yolo County prosecutors, and his son's former tutor. We have jurisdiction under 28 U.S.C. § 1291. We

* 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).

review de novo. *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005 (dismissal under the doctrine of res judicata); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)).

We affirm.

The district court properly dismissed the action because Todd’s claims were raised, or could have been raised, in a prior federal action between the parties that resulted in a final judgment on the merits. *See Mpoyo*, 430 F.3d at 987 (setting forth res judicata elements and requirements for identity of claims); *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956-57 (9th Cir. 2002) (the doctrine of res judicata bars subsequent litigation both of claims that were raised and those that could have been raised in the prior action; dismissal for failure to state a claim is a “judgment on the merits” for purposes of the doctrine).

AFFIRMED.