

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2016

FOR THE NINTH CIRCUIT

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

ADRIENNE A. BURCH,

No. 15-17303

Plaintiff-Appellant,

D.C. No. 2:15-cv-00928-GMN-
CWH

v.

BELLAGIO HOTEL AND CASINO; et al.,

MEMORANDUM*

Defendants-Appellees.

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, Chief Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Adrienne A. Burch appeals pro se from the district court's judgment dismissing her employment action alleging Title VII and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal on the basis of res judicata, *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

(9th Cir. 2002), and we affirm.

The district court properly dismissed Burch's action as barred by the doctrine of res judicata because Burch could have raised her claims in her prior action, which resulted in a final judgment. *See Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 713-14 (9th Cir. 2001) (stating elements of the doctrine of res judicata and noting that it bars subsequent litigation of both claims that were raised and claims that could have been raised in the prior action).

The district court did not abuse its discretion in concluding that Burch failed to establish that her June 23, 2015 attempt to serve defendant Bellagio, LLC was proper. *See Fed. R. Civ. P. 4; Nev. R. Civ. P. 4; see also Rio Properties, Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002) (standard of review).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We reject as without merit Burch's contentions regarding discovery and submission of evidence.

Burch's motion to waive the right to file a reply brief, filed September 26, 2016, is denied as unnecessary.

AFFIRMED.