

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 21 2023

FOR THE NINTH CIRCUIT

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

DANIEL B. BELT,

No. 22-17006

Plaintiff-Appellant,

D.C. No. 2:22-cv-00409-DJH

v.

MEMORANDUM*

STATE OF ARIZONA; ARIZONA OFFICE
OF ADMINISTRATIVE HEARINGS, a
government body of the State of Arizona;
GREG HANCHETT, in his official capacity
as the Director of the Arizona Office of
Administrative Hearings,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona

Diane J. Humetewa, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

Daniel B. Belt appeals pro se from the district court's judgment dismissing
his action alleging a violation of the Equal Protection Clause in connection with an

* 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).

Arizona administrative proceeding. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal based on res judicata. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed Belt's action as barred by res judicata because Belt seeks to relitigate a final administrative agency decision in a proceeding in which Belt had an adequate opportunity to litigate, and Belt did not appeal the agency decision to state court. *See Olson v. Morris*, 188 F.3d 1083, 1086 (9th Cir. 1999) (under Arizona law, res judicata precludes a party from seeking judicial review of a final agency decision that was not appealed to state court, including where the party alleges constitutional errors by the agency, so long as the decision meets the minimum criteria set forth in *United States v. Utah Construction & Mining Co.*, 384 U.S. 394 (1966)); *see also Utah Constr.* at 422 (application of res judicata is appropriate where the "administrative agency is acting in a judicial capacity and resolved disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate").

The district court did not abuse its discretion in requiring the parties to meet and confer prior to the filing of a motion to dismiss or in denying Belt's motion for a subpoena or order to preserve documents. *See City of Pomona v. SQM N. Am. Corp.*, 866 F.3d 1060, 1065 (9th Cir. 2017) (explaining that a "district court is given broad discretion in supervising the pretrial phase of litigation").

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions are denied.

AFFIRMED.