

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMEE DEIRDRE HUNDLEY A/K/A
JAMES DERRICK HUNDLEY,
Appellant,

vs.

DON POAG, DIRECTOR OF NURSING;
DR. JOHN SCOTT; DR. BRUCE
BANNISTER, DIRECTOR OF MEDICAL
SERVICES; AND THE NEVADA
DEPARTMENT OF CORRECTIONS,
Respondents.

No. 58616

FILED

DEC 14 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK


ORDER OF AFFIRMANCE

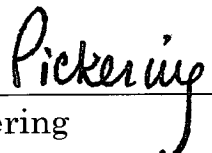
This is a proper person appeal from a district court order denying a petition for a writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

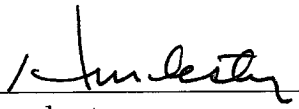
On review of the record and appellant's civil proper person appeal statement, we conclude that the district court did not abuse its discretion in denying the writ petition on the basis of claim preclusion. See City of Reno v. Reno Gazette-Journal, 119 Nev. 55, 58, 63 P.3d 1147, 1148 (2003) (providing that a district court's decision to deny a writ petition is reviewed for an abuse of discretion). Before filing the underlying writ petition, appellant had filed an action in federal court based on identical facts and seeking identical relief, which was dismissed. Despite appellant's claim that the dismissal of the previous action was not preclusive because it was on procedural grounds, the record demonstrates that the prior action was dismissed for failure to state a claim upon which relief could be granted, which is a dismissal with preclusive effect. See Federated Department Stores, Inc. v. Moitie, 452 U.S. 394, 399 n.3 (1981)

(providing that a dismissal for a failure to state a claim is a “judgment on the merits”) (internal quotations omitted). Because both the prior and instant actions involve the same parties or their privies and all of appellant’s claims either were or could have been raised in the previous action, the district court properly concluded that appellant’s writ petition was barred by the claim preclusion doctrine. See Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 1054-55, 194 P.3d 709, 713 (2008) (explaining that the doctrine of claim preclusion bars an action when a previous action, in which the parties or their privies are the same as in the current action, was resolved by a valid final judgment, and when the current action is based on the same claim or claims that were or could have been brought in the first action). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. James Todd Russell, District Judge
Jamee Deirdre Hundley
Attorney General/Carson City
Carson City Clerk